THE SIGNAL MOUNTAIN MUNICIPAL CODE

Prepared by the

Municipal Technical Advisory Service Institute for Public Service The University of Tennessee in cooperation with the Tennessee Municipal League

TOWN OF SIGNAL MOUNTAIN, TENNESSEE

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PREFACE

The Signal Mountain Municipal Code contains the codification and revision of the ordinances of the Town of Signal Mountain, 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).
- (2) That one copy of every ordinance adopted by the town is kept in a separate ordinance book and forwarded to MTAS annually.
- (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 Gardner, the MTAS Senior 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

SECTION 10. Procedure for adopting ordinances. All ordinances shall begin with the clause, "Be it ordained by the Council of the Town of Signal Mountain, Tennessee." An ordinance may be introduced by any of the five (5) members of the Council. The body of ordinances may be omitted from the minutes on first reading, but reference therein shall be made to the ordinance by title and subject matter. Every ordinance shall be passed on two (2) different days, at regular, special or adjourned meetings, with at least one (1) passage occurring at a regular meeting. Copies of the text of every ordinance must be made available to the public during every meeting in which the ordinance is subject to a reading. Every ordinance must receive at least three (3) positive votes on each reading. No material or substantial amendment may be made to an ordinance on final passage, unless such amendment be passed in the same manner as an amendment to an existing ordinance. Every ordinance shall be effective upon final passage unless by its terms the effective date is deferred. Every ordinance upon final passage shall be signed by the presiding officer of the Council, and shall be immediately taken charge of by the Recorder and numbered, copied in an ordinance book and there authenticated by the signature of the Recorder, and filed and preserved in the Recorder's office.

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TITLE 1

GENERAL ADMINISTRATION¹

CHAPTER

- 1. TOWN COUNCIL.
- 2. CODE OF ETHICS.
- 3. BOND FOR OFFICERS AND EMPLOYEES.

CHAPTER 1

TOWN COUNCIL²

- 1-101. Time and place of regular meetings.
- 1-102. Order of business.
- 1-103. General rules of order.
- 1-104. Notification of vacancy.
- 1-105. [Deleted.]
- 1-101. <u>Time and place of regular meetings</u>. The town council shall hold regular monthly meetings at 6:30 P.M. on the second Monday of each month at the town hall. (1985 Code, § 1-101, modified, as replaced by Ord. #2008-10, Aug. 2008)
- 1-102. <u>Order of business</u>. (1) The regular order of business for town council meetings shall include:
 - (a) Call to order by the mayor.
 - (b) Pledge.
 - (c) Roll call.
 - (d) Approval of minutes.
 - (e) Citizen's opportunity to address council.
 - (f) Resolutions.
 - (g) Ordinances.

 $^{^1} See\ Title\ 2, \ \underline{Board\ and\ Commissions}, for\ citizens\ advisory\ committee\ and\ other\ city\ boards.$

²See Article IV, <u>Town Council</u>, for specific duties and restrictions on mayor and town council; See also Article V, <u>Town Manager</u>, for appointment, powers and duties, etc., of town manager, and Article VIII, <u>Administration</u>, for personnel rules, department, offices, and agencies generally, direction and supervision, etc.

- (h) Communications and reports from the mayor/council.
- (i) Reports from committees and boards.
- (j) Adjourn.
- (2) Other agenda items (e.g., invocation/moment of silence, presentations, proclamations, public hearings, manager's report, discussion) may be included on an ongoing or special basis, at the discretion of the council or town manager. (1985 Code, § 1-102, modified, as replaced by Ord. #2020-07, June 2020 *Ch20_06-28-21*)
- 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 town council at its meetings in all cases to which they are applicable and in which they are not inconsistent with provisions of the charter or this code. (1985 Code, § 1-103)
- 1-104. Notification of vacancy. In the event that three council members fail to attend three consecutive regular meetings of the council without being excused by the council, then the other one, or two, council members who do attend the three meetings, but cannot act because of a "lack of a quorum" shall, after the expiration of thirty (30) days from the third consecutive missed meeting date, notify the Hamilton County Election Commission of the office vacancy and request them to hold a special election to fill the vacancy for the unexpired terms as set out in the Charter of the Town of Signal Mountain, Private Chapter No. 126, House Bill No. 1642, Private Acts of 1990. (as added by Ord. #98-16, June 1998)
- 1-105. [<u>Deleted</u>.] (as added by Ord. #2007-14, Nov. 2007, and deleted by Ord. #2010-19, Oct. 2010)

CODE OF ETHICS

- 1-201. Applicability.
- 1-202. Definition of "personal interest."
- 1-203. Disclosure of personal interest by official with vote.
- 1-204. Disclosure of personal interest in nonvoting matters.
- 1-205. Acceptance of gratuities, etc.
- 1-206. Use of information.
- 1-207. Use of municipal time, facilities, etc.
- 1-208. Use of position or authority.
- 1-209. Outside employment.
- 1-210. Ethics complaints.
- 1-211. Violations.
- 1-201. <u>Applicability</u>. This chapter is the code of ethics for personnel of the Town of Signal Mountain. It applies to all full-time and part-time employees, whether compensated or not, including those of any separate board, commission, committee, authority, corporation, or other instrumentality appointed or created by the municipality. The words "municipal" and "municipality" include these separate entities. (as added by Ord. #98-12, May 1998, as replaced by Ord. #2007-4, Jan. 2007)
- 1-202. <u>Definition of "personal interest</u>." (1) For purposes of §§ 1-203 and 1-204, "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), stepparent(s), grandparent(s), sibling(s), child(ren), or stepchild(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. #2007-4, Jan. 2007)

- 1-203. <u>Disclosure of personal interest by official with vote</u>. An official with the responsibility to vote on a measure shall disclose during the meeting at which the vote takes place, before the vote and so it appears in the minutes, any personal interest that affects or that would lead a reasonable person to infer that it affects the official's vote on the measure. In addition, the official may recuse himself/herself from voting on the measure. (as added by Ord. #2007-4, Jan. 2007)
- 1-204. <u>Disclosure of personal interest in nonvoting matters</u>. 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 discretion shall disclose, before the exercise of the discretion when possible, the interest on a form provided by and filed with the recorder. In addition, the official or employee may, to the extent allowed by law, charter, ordinance, or policy, recuse himself from the exercise or discretion in the matter. (as added by Ord. #2007-4, Jan. 2007)
- 1-205. <u>Acceptance of gratuities, etc.</u> An official or employee may not accept, directly or indirectly, any money, gift, gratuity, or other consideration or favor of any kind from anyone other than the municipality:
- (1) For the performance of an act, or refraining from performance of any 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.

Any annual gift provided to town employees by the S.M. Robertson Police and Fire Christmas Fund or the Town Employee's Christmas Fund shall not constitute money, gift, gratuity, or other consideration or favor prohibited by this section. (as added by Ord. #2007-4, Jan. 2007)

- 1-206. <u>Use of information</u>. (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. #2007-4, Jan. 2007)
- 1-207. <u>Use of municipal time, facilities, etc.</u> (1) An official or employee may not use or authorize the use of municipal time, facilities, equipment, or supplies for private gain or advantage to himself.
- (2) An official or employee may not use or authorize the use of municipal time, facilities, equipment, or supplies for private gain or advantage

to any private person or entity, except as authorized by legitimate contract or lease that is determined by the governing body to be in the best interests of the municipality. (as added by Ord. #2007-4, Jan. 2007)

- 1-208. <u>Use of position or authority</u>. (1) An official or employee may not make or attempt to make private purchases, for cash or otherwise, in the name of the municipality.
- (2) An official or employee may not use or attempt to use his position to secure any privilege or exemption for himself or others that is not authorized by the charter, general law, or ordinance or policy of the municipality. (as added by Ord. #2007-4, Jan. 2007)
- 1-209. <u>Outside employment</u>. An official or employee may not accept or continue any outside employment if the work unreasonably inhibits the performance of any affirmative duty of the municipal position or conflicts with any provision of the municipality's charter or any ordinance or policy. (as added by Ord. #2007-4, Jan. 2007)
- 1-210. Ethics complaints. (1) The town attorney is designated as the ethics officer of the municipality. Upon the written request of an official or employee potentially affected by a provision of this chapter, the town attorney may render an oral or written advisory ethics opinion based upon this chapter and other applicable law.
 - (2) (a) Except as otherwise provided in this subsection, the town attorney shall investigate any credible complaint against an appointed official or employee charging any violation of this chapter, or may undertake an investigation on his own initiative when he acquires information indicating a possible violation and make recommendations for action to end or seek retribution for any activity that, in the attorney's judgment, constitutes a violation of this code of ethics.
 - (b) The town attorney may request 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, it shall authorize an investigation by the town attorney or another individual or entity chosen by the governing body.
- (3) The interpretation that a reasonable person in the circumstances would apply shall be used in interpreting and enforcing this code of ethics.

- (4) When a violation of this code of ethics also constitutes a violation of a personnel policy, rule, or regulation or a civil service policy, rule, or regulation, the violation shall be dealt with as a violation of the personnel or civil service provisions rather than as a violation of this code of ethics. (as added by Ord. #2007-4, Jan. 2007)
- 1-211. <u>Violations</u>. 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. #2007-4, Jan. 2007)

BOND FOR OFFICERS AND EMPLOYEES

- 1-301. Bond for council members, town manager and town recorder.
- 1-302. Bond--employees.
- 1-303. Bond costs.
- 1-301. Bond for council members, town manager and town recorder. That the council members of the Town of Signal Mountain, Tennessee, the town manager, and the town recorder shall execute and give the Town of Signal Mountain, Tennessee, a surety bond, with some surety company authorized to do business in the State of Tennessee, in the amount of two hundred fifty thousand dollars (\$250,000.00), as surety, for their duties embracing the receipt, disbursement, custody or handling of money for the town. (as added by Ord. #2000-6, June 2000)
- 1-302. <u>Bond--employees</u>. That the employees of the Town of Signal Mountain, Tennessee shall execute and give the Town of Signal Mountain, Tennessee, a surety bond, with some surety company authorized to do business in the State of Tennessee, in the amount of one hundred thousand dollars (\$100,000.00), as surety, for their duties embracing the receipt, disbursement, custody or handling of money for the town. (as added by Ord. #2000-6, June 2000)
- 1-303. Bond costs. That the cost of all bonds shall be and expense of the town. (as added by Ord. #2000-6, June 2000)

TITLE 2

BOARD AND COMMISSIONS, ETC.

CHAPTER

- 1. GENERAL BOARD AND COMMISSION REQUIREMENTS.
- 2. BOARD OF ZONING APPEALS.
- 3. CITIZENS' ADVISORY COMMITTEE.
- 4. CONDEMNATION BOARD.
- 5. CONSTRUCTION BOARD OF ADJUSTMENTS AND APPEALS.
- 6. DESIGN REVIEW COMMISSION.
- 7. HEALTH, EDUCATIONAL AND HOUSING FACILITY BOARD.
- 8. HISTORICAL COMMITTEE.
- 9. SIGNAL MOUNTAIN PUBLIC LIBRARY BOARD OF DIRECTORS.
- 10. MOUNTAIN ARTS COMMUNITY CENTER BOARD.
- 11. MUNICIPAL PLANNING COMMISSION.
- 12. PARKS BOARD.
- 13. PERSONNEL COMMITTEE.
- 14. RECREATION BOARD.
- 15. STORMWATER APPEALS BOARD.
- 16. TREE BOARD.

CHAPTER 1

GENERAL BOARD AND COMMISSION REQUIREMENTS

- 2-101. General.
- 2-102. Appointment process.
- 2-103. Terms of appointment.
- 2-104. Provision for ad hoc membership.
- 2-105. Meetings and officers.
- 2-106. Staff and council support.
- 2-107. Duties and expectations of a councilmember liaison.
- 2-108. Vacancies and removals.
- 2-101. <u>General</u>. The following requirements will apply to all procedures, appointments and terms of any boards and commissions in the town except where otherwise provided by the Charter of the Town of Signal Mountain, state or other superior law. (Ord. #90-2, Nov. 1990, as replaced by Ord. #2010-3, Jan. 2010, and Ord. #2012-4, March 2012)
- 2-102. <u>Appointment process</u>. Appointments to any board, committee or commission of the Town of Signal Mountain (hereinafter referred to generally

as "board" or "town board") shall be by a majority vote of the town council. The town council will make every effort to ensure that the membership of its standing and advisory boards reflects the diversity of the community. Board openings shall be publicly advertised for a period not less than three (3) weeks. Board 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 town council for making an informed decision.

Re-appointment for sitting board members shall not be automatic. Members will receive letters from the town manager near the end of their terms. Members who are still eligible and wish to apply for re-appointment shall advise the town manager by the date required in the letter. All appointments and re-appointments will be determined by a majority vote of the town council. At the time of appointment, applicants shall be bona fide residents of the town except for specific exceptions as noted on certain boards. Members will serve without pay, but with prior approval shall be reimbursed for expenses. (Ord. #90-2, Nov. 1990, modified, as replaced by Ord. #2010-3, Jan. 2010, and Ord. #2012-4, March 2012)

- 2-103. Terms of appointment. Members shall serve for three (3) years commencing on the first day of January of the year in which their terms begin. To assure continuity when establishing a new board, initial terms shall be staggered; for example, for a five (5) member board, one (1) member shall be appointed for one (1) year, two (2) members shall be appointed for two (2) years and two (2) members shall be appointed for three (3) years. For a seven (7) member board, two (2) members shall be appointed for one (1) year, two (2) members shall be appointed for two (2) years, and three (3) members shall be appointed for three (3) years, and so on. Members of citizen's advisory committee or any subcommittees created pursuant to § 2-302 are excluded from the terms of this section and shall have specific terms for the project as established by the council (not to exceed four (4) years following appointment).(1985 Code, § 1-403, as replaced by Ord. #2010-3, Jan. 2010, Ord. #2012-4, March 2012, and Ord. #2016-04, April 2016)
- 2-104. Provision for ad hoc membership. Non-voting ad hoc members with interest, skill sets, or expertise in particular areas may be appointed to serve on a particular board to support the purposes and goals of that board. Such members shall provide a completed board application to the town manager and will serve at the will and convenience of the board with approval by the town council. (1985 Code, § 1-404, as replaced by Ord. #2010-3, Jan. 2010, and Ord. #2012-4, March 2012)
- 2-105. <u>Meetings and officers</u>. The date and time of regular meetings shall be decided by a majority vote of the board. A majority of members shall

constitute a quorum necessary to transact board business. All meetings shall be publicly noticed and comply with the provisions of public meetings law. At the beginning of each calendar year, boards 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 board, and upon approval, shall provide copies of them to the town manager for the public record and for distribution to the town council. Should an elected officer resign or be unable to complete his/her term for any reason, the board shall elect a new officer at the next regular meeting. (1985 Code, § 1-405, as replaced by Ord, #2010-3, Jan. 2010, and Ord, #2012-4, March 2012)

- 2-106. Staff and council support. Each board shall be provided staff support as needed as determined by the town manager and town council. The town council by majority vote shall appoint a councilmember as a liaison ("councilmember liaison") to each board to facilitate communication between the board and the council. The councilmember liaison shall participate in the work of the board, as outlined in § 2-107, but shall not be an official voting member of a board unless required by superior law, as in the case of the planning commission and in the case of the library board. (as added by Ord. #2012-4, March 2012, and replaced by Ord. #2021-02, March 2021 *Ch20_06-28-21*)
- 2-107. <u>Duties and expectations of a councilmember liaison</u>. (1) Except as required by superior law, such as the case of the planning commission and in the case of the library board, a councilmember liaison to a board, committee, or commission (a "board") is not a member of the board. Rather, the councilmember's role is to represent the full council in providing guidance to the board and to be a positive resource to support the board in the completion of its work subject to the rules stated in subsections (2) through (6) below.
- (2) A councilmember liaison is a representative of the full council and, as such, has no authority to provide any independent direction or guidance to the board. The councilmember liaison should only provide direction or guidance that clearly represents the direction or guidance of the full council.
- (3) Generally, the councilmember liaison shall not attempt to influence the work or recommendations of the board. More specifically, the councilmember liaison:
 - (a) Shall not take part in the board's deliberations unless the councilmember determines that he or she must speak up in order to remind the board of council's direction or guidance, town policies, or laws including the Open Public Meetings Act and the Public Records Act; and
 - (b) Shall not take part in any votes or decision-making of the board.

However, the councilmember liaison may participate in discussions with the board during any time that the board allows for citizens to address the board so long as the councilmember liaison expressly states that she or he is speaking personally, as a citizen, and not for the entire council.

- (4) The councilmember liaison shall work to ensure that the board is only taking actions or doing work that is within the scope of the board's work as determined or approved by council. The councilmember liaison can do this by, for example, reminding the board as needed of the scope of work that the council set for the board.
- (5) The councilmember liaison shall bring to the council any requests from the board, such as the following:
 - (a) Questions raised by the board about the board's scope of work;
 - (b) Requests from the board to change the board's scope of work;
 - (c) Requests for expenditures of town resources to further the board's work (money, staff time, or other resources); and
 - (d) Requests from the board to place an item on a council meeting agenda.
- (6) The councilmember liaison shall work to ensure that the council is regularly updated on the work of the board. To that end, the councilmember liaison shall periodically provide a report on the board's progress to the council. (as added by Ord. #2021-02, March 2021 *Ch20_06-28-21*)
- 2-108. <u>Vacancies and removals</u>. In the event that a vacancy shall occur during the term of a member, his or her successor shall be appointed for the unexpired portion of the term by means of the appointment process (§ 2-102). Board members serve at the pleasure of the council. Members may be removed for cause. Cause shall include, but not be limited to, if a member:
- (1) Lacks at any time during the term of office any qualification for the office prescribed by the charter or by law.
 - (2) Violates any expressed prohibition of the charter.
 - (3) Is convicted of a state or federal felony, appeals notwithstanding.
 - (4) Fails to stay current and participate in the work of the board.
- (5) Fails to attend seventy percent (70%) or more of meetings of the board.
- (6) If required for membership, fails to maintain a bona fide residence within the town for sixty (60) consecutive days. (as added by Ord. #2012-4, March 2012, and replaced and renumbered by Ord. #2021-02, March 2021 *Ch20 06-28-21*)

BOARD OF ZONING APPEALS

SECTION

- 2-201. Establishment and purpose.
- 2-202. Organization and membership.
- 2-203. Duties and functions.
- 2-204. Appeals, hearing and notice.

2-201. Establishment and purpose. As directed by the town charter, Private Acts, chapter 126, article II, "Powers," Section 1, "Powers enumerated," No. (30)¹, a Board of Zoning Appeals, hereinafter referred to as the BZA, is hereby established pursuant to and consistent with the general law with all the powers conferred by general law to act upon the plans, plats, decisions and recommendations as provided by the Signal Mountain Zoning Ordinance, Appendix A, Article X, Board of Zoning Appeals: Establishment and Procedure,² 1001, "Board of Zoning Appeals: Establishment and Membership."³ (1985 Code, § 1-501, modified, as replaced by Ord. #2010-3, Jan. 2010, and Ord. #2012-4, March 2012)

2-202. <u>Organization and membership</u>. (See title 2, chapter 1, "General Board and Commission Requirements," §§ 2-101--2-107.) The BZA shall consist of five (5) residents of the town. The BZA shall adopt rules necessary to conduct its affairs in accordance with the provisions of Article X of the Signal Mountain Zoning Ordinance. Each member of the BZA shall be required to stay current with municipal planning and zoning practices by completing four (4) hours of training per year. Meetings of the BZA shall be held at the call of the chairman,

¹Ord. #2012-4 referred to number (34). The correct number for this section is (30) and has been substituted.

²Ord. #2012-4 referred to article "BZA." The correct name for this article is "Board of Zoning Appeals: Establishment and Procedure" and has been corrected.

³Ord. #2012-4 referred to section "Establishment & Procedure." The correct name for this section is "Board of Zoning Appeals: Establishment and Membership" and has been corrected.

⁴Ord. #2012-4 referred to chapter "General Board Requirements." The correct name for this chapter is "General Board and Commission Requirements" and has been substituted throughout this title.

or in his absence, the vice-chairman, who may administer oaths and compel the attendance of witnesses.

The secretary of the BZA shall keep minutes of its proceedings, listing members who are present and each member's vote upon each question, and shall keep records of its proceedings and other official actions, all of which shall be immediately filed in the office of the BZA, located in the Signal Mountain Town Hall, and shall be a public record. The secretary of the BZA shall make an annual written report to the town council to include a summary of its work including dates and decisions. (1985 Code, § 1-502, as replaced by Ord. #2010-3, Jan. 2010, and Ord. #2012-4, March 2012)

2-203. <u>Duties and functions</u>. The duties and functions of the BZA shall include but not be limited to hearing and deciding appeals of any alleged error in any order, requirement, permit, decision or refusal made by the building official or any other administrative official in carrying out the enforcement of the Signal Mountain Zoning Ordinance. The BZA shall also grant and deny requests for variances or other special exceptions to the zoning ordinance or town map based on the intent and purpose of the zoning ordinance or the town's current land use and transportation plan Signal Mountain Zoning Ordinance, Appendix A, Article XI, 1101, "Powers and Duties," and Article XII, Board of Zoning Appeals Variances and Special Permits, 1200. (1985 Code, § 1-503, as replaced by Ord. #2010-3, Jan. 2010, and Ord. #2012-4, March 2012)

2-204. <u>Appeals, hearings and notice</u>. See town code, Appendix A, Article XIII, Appeals from the Board of Zoning Appeals. (as added by Ord. #2010-3, Jan. 2010, and replaced by Ord. #2012-4, March 2012)

¹Ord. #2012-4 referred to article "Variances and Special Permits." The correct name for this article is "Board of Zoning Appeals Variances and Special Permits" and has been corrected.

CITIZENS' ADVISORY COMMITTEE¹

- 2-301. Establishment and purpose.
- 2-302. Organization and membership.
- 2-303. Duties and functions.
- 2-304. [Deleted.]
- 2-301. <u>Establishment and purpose</u>. There is hereby created a citizens' advisory committee to serve in an advisory capacity to the town council and the town manager as a research and discovery entity devoted to special projects with potential benefits to the community. (1985 Code, § 1-601, as replaced by Ord. #91-12, Ord. #2010-3, Jan. 2010, and Ord. #2012-4, March 2012)
- 2-302. Organization and membership. (See title 2, chapter 1, "general board and commission requirements," §§ 2-101--2-107.) The committee may consist of as many independent subcommittees as the council 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 town council. A subcommittee shall consist of as many as seven (7) members as the council 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. (1985 Code, § 1-602, as replaced by Ord. #91-12, Ord. #2010-3, Jan. 2010, Ord. #2012-4, March 2012, and Ord. #2016-04, April 2016)
- 2-303. <u>Duties and functions</u>. The committee shall be charged with information gathering, consolidation of such, and the communication of its conclusions to the town council, including suggestions and recommendations for improvements or changes to benefit the community. (1985 Code, § 1-603, as replaced by Ord. #91-12, Ord. #2010-3, Jan. 2010, and Ord. #2012-4, March 2012)
- 2-304. [<u>Deleted</u>.] (as added by Ord. #2010-3, Jan. 2010, and deleted by Ord. #2012-4, March 2012)

¹Where "board" was used interchangeably with "committee" in Ord. #2012-4, "board" has been substituted with "committee" for consistency.

CONDEMNATION BOARD

- 2-401. Establishment and purpose.
- 2-402. Organization and membership.
- 2-403. Duties and functions.
- 2-404. [Deleted.]
- 2-405. [Deleted.]
- 2-406. [Deleted.]
- 2-401. <u>Establishment and purpose</u>. There is hereby established a condemnation board authorized to assure that buildings and structures in the Town of Signal Mountain remain in good repair and in compliance with the codes of the town. (1985 Code, § 1-701, as replaced by Ord. #2010-3, Jan. 2010, and Ord. #2012-4, March 2012)
- 2-402. Organization and membership. (See title 2, chapter 1, "General Board and Commission Requirements," §§ 2-101--2-107.) The board shall be comprised of five (5) voting members as follows: the town police chief, fire chief, and building official as well as three (3) residents of the town, one (1) of whom shall be in real estate and one (1) in the insurance business. (1985 Code, § 1-702, as replaced by Ord. #2010-3, Jan. 2010, and Ord. #2012-4, March 2012)
- 2-403. <u>Duties and functions</u>. The duties and functions of the condemnation board shall include but not be limited to the investigation of buildings or structures that are purported to be a menace to the public health, safety or the public convenience as requested by the town manager, who shall report such findings to the town council. The board shall be empowered to require owners to repair or otherwise bring such buildings or structures into compliance with building, plumbing, electrical, gas, housing and other similar codes of the town relating to buildings or structures or demolish them (see title 12, chapter 3, "Unsafe Buildings," §§ 12-301--12-306). (1985 Code, § 1-703, as replaced by Ord. #2010-3, Jan. 2010, and Ord. #2012-4, March 2012)
- 2-404. [<u>Deleted</u>.] (1985 Code, § 1-704, as repealed by Ord. #2010-3, Jan. 2010, and deleted by Ord. #2012-4, March 2012)
- 2-405. [Deleted.] (1985 Code, § 1-705, as repealed by Ord. #2010-3, Jan. 2010, and deleted by Ord. #2012-4, March 2012)
- 2-406. [$\underline{Deleted}$.] (1985 Code, § 1-706, as repealed by Ord. #2010-3, Jan. 2010, and deleted by Ord. #2012-4, March 2012)

CONSTRUCTION BOARD OF ADJUSTMENTS AND APPEALS¹

SECTION

- 2-501. Establishment and purpose.
- 2-502. Organization and membership.
- 2-503. Duties and functions.
- 2-504. Appeals.
- 2-505. [Deleted.]
- 2-506. [Deleted.]
- 2-507. [Deleted.]
- 2-508. [Deleted.]
- 2-509. [Deleted.]
- 2-510. [Deleted.]
- 2-511. [Deleted.]
- 2-512. [Deleted.]
- 2-513. [Deleted.]
- 2-514. [Deleted.]
- 2-515. [Deleted.]
- 2-516. [Deleted.]
- 2-517. [Deleted.]
- 2-518. [Deleted.]
- 2-519. [Deleted.]
- 2-501. <u>Establishment and purpose</u>. There is hereby established a construction board of adjustments and appeals for mechanical codes to facilitate citizens' appeals to decisions by various enforcement officers of the town and to evaluate issues relating to the mechanical codes of the town (see title 12,
- chapter 6, "Construction Board of Adjustments and Appeals," § 12-601). (as added by Ord. #93-8, § 2, June 1993, and replaced by Ord. #2010-3, Jan. 2010, and Ord. #2012-4, March 2012)
- 9.509. Ourseinstien and m
- 2-502. Organization and membership. (See title 2, chapter 1,"General Board and Commission Requirements," §§ 2-101--2-107.) The board shall consist of eight (8) residents of the town (this requirement may be waived by a unanimous vote of the council if necessary to complete the board with appropriately skilled appointments) and shall be knowledgeable in the field of construction. One (1) member of the board shall be a building contractor; one (1) member shall be an

Construction board of adjustments and appeals: title 12, chapter 6.

¹Municipal code reference

electrical contractor; one (1) member shall be a realtor; one (1) member shall be an architect; one (1) member shall be an engineer; one (1) member shall be a fire protection professional; and, one (1) member shall be a homeowner (see title 12, chapter 6, "Construction Board of Adjustments and Appeals," §§ 12-602--12-604).

The board shall meet on call by its chairman to consider appeals from the decisions of the various enforcement officers of the various mechanical codes of the town to consider adjustments in the various mechanical codes. (as added by Ord. #93-8, § 2, June 1993, and replaced by Ord. #2010-3, Jan. 2010, and Ord. #2012-4, March 2012)

- 2-503. <u>Duties and functions</u>. The board shall be the appeals board for the Building, Electrical, Fire, Fuel Gas, Life Safety, Mechanical and Plumbing Codes of the Town of Signal Mountain and shall act as the board of adjustments and appeals for appeals from any decision of the building official or his designee and consider variances of the technical codes adopted by the town. The board shall also evaluate the safety and performances of new materials or materials not specifically covered in the codes and determine the usability of such materials as well as evaluate the safety and performance of various types of construction. The board shall also make recommendations to the town council for revisions or modifications of existing mechanical codes (see title 12, chapter 6, "Construction Board of Adjustments and Appeals," § 12-605). (as added by Ord. #93-8, § 4, June 1993, amended by Ord. #95-2, § 1, Feb. 1995, and replaced by Ord. #2010-3, Jan. 2010, and Ord. #2012-4, March 2012)
- 2-504. Appeals. Any person aggrieved by any action or decision of the board may appeal to the town council by requesting an appeal, in writing, within ten (10) days after said action or decision is rendered (title 12, chapter 6, "Construction Board of Adjustments and Appeals," § 12-606.) (as added by Ord. #93-8, § 5, June 1993, repealed by Ord. #2010-3, Jan. 2010, and replaced by Ord. #2012-4, March 2012)
- 2-505. [<u>Deleted</u>.] (as added by Ord. #93-8, § 6, June 1993, repealed by Ord. #2010-3, Jan. 2010, and deleted by Ord. #2012-4, March 2012)
- 2-506. [Deleted.] (as added by Ord. #93-8, June 1993, amended by Ord. #99-9, April 1999, replaced by Ord. #2006-2, Feb. 2006, repealed by Ord. #2010-3, Jan. 2010, and deleted by Ord. #2012-4, March 2012)
- 2-507. [[Deleted.] (as added by Ord. #93-8, June 1993, replaced by Ord. #2006-2, Feb. 2006, repealed by Ord. #2010-3, Jan. 2010, and deleted by Ord. #2012-4, March 2012)

- 2-508. [<u>Deleted</u>.] (as added by Ord. #93-8, § 9, June 1993, replaced by Ord. #2008-7, June 2008, repealed by Ord. #2010-3, Jan. 2010, and deleted by Ord. #2012-4, March 2012)
- 2-509. [Deleted.] (as added by Ord. #93-8, § 10, June 1993, repealed by Ord. #2010-3, Jan. 2010, and deleted by Ord. #2012-4, March 2012)
- 2-510. [<u>Deleted</u>.] (as added by Ord. #93-8, § 11, June 1993, repealed by Ord. #2010-3, Jan. 2010, and deleted by Ord. #2012-4, March 2012)
- 2-511. [<u>Deleted</u>.] (as added by Ord. #93-8, § 12, June 1993, repealed by Ord. #2010-3, Jan. 2010, and deleted by Ord. #2012-4, March 2012)
- 2-512. [<u>Deleted</u>.] (as added by Ord. #2008-5, June 2008, amended by Ord. #2009-8, May 2009, repealed by Ord. #2010-3, Jan. 2010, and deleted by Ord. #2012-4, March 2012)
- 2-513. [<u>Deleted</u>.] (as added by Ord. #2008-5, June 2008, amended by Ord. #2009-8, May 2009, repealed by Ord. #2010-3, Jan. 2010, and deleted by Ord. #2012-4, March 2012)
- 2-514. [<u>Deleted.</u>] (as added by Ord. #2008-5, June 2008, amended by Ord. #2009-8, May 2009, repealed by Ord. #2010-3, Jan. 2010, and deleted by Ord. #2012-4, March 2012)
- 2-515. [<u>Deleted</u>.] (as added by Ord. #2008-5, June 2008, amended by Ord. #2009-8, May 2009, repealed by Ord. #2010-3, Jan. 2010, and deleted by Ord. #2012-4, March 2012)
- 2-516. [Deleted.] (as added by Ord. #2008-5, June 2008, amended by Ord. #2009-8, May 2009, repealed by Ord. #2010-3, Jan. 2010, and deleted by Ord. #2012-4, March 2012)
- 2-517. [<u>Deleted</u>.] (as added by Ord. #2008-5, June 2008, amended by Ord. #2009-8, May 2009, repealed by Ord. #2010-3, Jan. 2010, and deleted by Ord. #2012-4, March 2012)
- 2-518. [<u>Deleted</u>.] (as added by Ord. #2008-5, June 2008, amended by Ord. #2009-8, May 2009, repealed by Ord. #2010-3, Jan. 2010, and deleted by Ord. #2012-4, March 2012)
- 2-519. [<u>Deleted</u>.] (as added by Ord. #2008-5, June 2008, amended by Ord. #2009-8, May 2009, repealed by Ord. #2010-3, Jan. 2010, and deleted by Ord. #2012-4, March 2012)

DESIGN REVIEW COMMISSION

SECTION

- 2-601. Establishment and purpose.
- 2-602. Organization and membership.
- 2-603. Duties and functions.
- 2-604. Appeals.
- 2-605. [Deleted.]
- 2-606. [Deleted.]
- 2-607. [Deleted.]
- 2-608. [Deleted.]
- 2-609. [Deleted.]
- 2-601. <u>Establishment and purpose</u>. As directed by the town charter, Private Acts, chapter 126, article II, "Powers," Section 1, No. (34), there is hereby established a Design Review Commission, hereinafter referred to as the DRC, for the purpose of developing aesthetic and architectural controls for the community, pursuant to and consistent with the general law, and to invest such commission with all the powers conferred by general law; and to review and act upon the decisions and recommendations of the commission, as the general law provides (title 14, "Zoning and Land Use Control," chapter 4, "Design Principles and Standards," §§ 12-401--12-413, and chapter 5, "Sign Regulations, §§ 12-501--12-520).

The intent and purpose of the DRC, shall be to:

- (1) Maintain the Town of Signal Mountain as a predominantly single-family residential community by protecting the character and integrity of existing and future residential areas through the provision of high quality design standards in new development and the protection of residential areas from encroachment by non-compatible land uses.
- (2) Maintain a balance among land uses within the town favoring residential over commercial or industrial growth, a policy requiring the town to protect its residential property tax base through the implementation of appropriate community appearance standards generally and, more specifically, of standards ensuring that commercial, industrial and multi-family development do not impair the property values of single-family detached residential development within the town. (as added by Ord. #2006-1, Feb. 2006, and replaced by Ord. #2010-3, Jan. 2010, and Ord. #2012-4, March 2012)

¹Ord. #2012-4 referred to title "Zoning and Land Use." The correct name for this title is "Zoning and Land Use Control" and has been corrected throughout this title.

2-602. Organization and membership. (See title 2, chapter 1, "General Board and Commission Requirements," §§ 2-101--2-107.) The DRC shall consist of seven (7) residents of the town. The following fields should be represented through the appointment of at least four (4) members professionally qualified in the following fields: architect, designer, landscape architect, horticulturist, arborist, engineer, builder/contractor, business owner, engineer or land use planner. The DRC may adopt rules governing its procedures by a majority vote. The secretary shall keep minutes of its proceedings showing the vote of each member upon each question or if a member is absent or fails to vote. The secretary shall also make an annual written report to the town council to include a summary of its work including attendance, cases and decisions. (as added by Ord. #2010-3, Jan. 2010, and replaced by Ord. #2012-4, March 2012)

2-603. <u>Duties and functions</u>. The duties and functions of the DRC shall include but not be limited to reviewing and deciding questions based on the town's comprehensive "Design Principles and Standards," and the "Sign Regulations" for commercial buildings, commercial properties, government buildings, the golf course, duplexes, and planned unit developments. Applications for DRC review and approval shall be submitted to the town building official who shall contact the DRC chairman to schedule a hearing at the next regular meeting of the DRC (see title 14, "Zoning and Land Use Control," chapters 4 and 5, "Design Principles and Standards" and "Sign Regulations¹"). In order to stay current, at the request of the town council the DRC shall also review and revise its principles, standards and regulations from time to time.

The following types of projects shall be subject to DRC review and approval:

- (1) Site plans for new construction including site improvements and signage.
 - (2) Demolitions or changes in use for land and/or buildings.
 - (3) Improvements to existing structures.
 - (4) Remodeling and alterations.
 - (5) Lighting.
 - (6) Parking and pavement areas.
 - (7) Landscaping and site treatment.
 - (8) Screening.
- (9) General signage. (see title 14, chapter 5, "Sign Regulations"). (as added by Ord. #2010-3, Jan. 2010, and replaced by Ord. #2012-4, March 2012)

¹Ord. #2012-4 referred to chapter "DRC." The correct title for this chapter is "Design Principles and Standards" and has been substituted. The chapter "Sign Regulations" has been added for consistency.

- 2-604. <u>Appeals</u>. An applicant whose plans or signage is disapproved by the DRC may appeal such decision to the town council (see title 14, "Zoning and Land Use Control," chapter 4, § 14-412, and chapter 5, § 14-515). (as added by Ord. #2010-3, Jan. 2010, and replaced by Ord. #2012-4, March 2012)
- 2-605. [Deleted.] (as added by Ord. #2010-3, Jan. 2010, amended by Ord. #2010-10, June 2010, and deleted by Ord. #2012-4, March 2012)
- 2-606. [Deleted.] (as added by Ord. #2010-3, Jan. 2010, replaced by Ord. #2010-12, June 2010, and deleted by Ord. #2012-4, March 2012)
- 2-607. [Deleted.] (as added by Ord. #2010-3, Jan. 2010, and deleted by Ord. #2012-4, March 2012)
- 2-608. [Deleted.] (as added by Ord. #2010-3, Jan. 2010, and deleted by Ord. #2012-4, March 2012)
- 2-609. [Deleted.] (as added by Ord. #2010-3, Jan. 2010, and deleted by Ord. #2012-4, March 2012)

HEALTH, EDUCATIONAL AND HOUSING FACILITY BOARD

- 2-701. Establishment and purpose.
- 2-702. Organization and membership.
- 2-703. Duties and functions.
- 2-704. [Deleted.]
- 2-705. [Deleted.]
- 2-706. [Deleted.]
- 2-701. Establishment and purpose. There is hereby established a health, educational and housing facility board, an independent corporation organized under the state to provide low-rate bond financing to health and educational facilities in the town and to promote health and higher education to the citizens of the town. (as added by Ord. #2008-9, July 2009, and replaced by Ord. #2009-7, May 2009, Ord. #2010-3, Jan. 2010, and Ord. #2012-4, March 2012)
- 2-702. Organization and membership. (See title 2, chapter 1, "General Board and Commission Requirements," §§ 2-101--12-107.) The board is comprised of seven (7) residents of the town appointed by the town council. The terms of appointment shall be six (6) years. Annual meetings shall be held the second Tuesday in May. Other meetings may be scheduled as necessary. (as added by Ord. #2008-9, July 2009, and replaced by Ord. #2009-7, May 2009, Ord. #2010-3, Jan. 2010, and Ord. #2012-4, March 2012)
- 2-703. <u>Duties and functions</u>. Pursuant to article V of the certificate of incorporation of the health, educational and housing facility board, the board is responsible for promoting the health and higher education of the people of the Town of Signal Mountain, Hamilton County, Tennessee, and surrounding areas, and to exercise the authority and pursue the objectives of health and education corporations as provided in <u>Tennessee Code Annotated</u>, and particularly chapter 3, part 3, of <u>Tennessee Code Annotated</u>, title 48 thereof, including amendments. (as added by Ord. #2008-9, July 2009, and replaced by Ord. #2009-7, May 2009, Ord. #2010-3, Jan. 2010, and Ord. #2012-4, March 2012)
- 2-704. [<u>Deleted</u>.] (as added by Ord. #2008-9, July 2008, repealed by Ord. #2010-3, Jan. 2010, and deleted by Ord. #2012-4, March 2012)
- 2-705. [Deleted.] (as added by Ord. #2008-9, July 2008, repealed by Ord. #2010-3, Jan. 2010, and deleted by Ord. #2012-4, March 2012)

2-706. [$\underline{\text{Deleted}}$.] (as added by Ord. #2008-9, July 2008, repealed by Ord. #2010-3, Jan. 2010, and deleted by Ord. #2012-4, March 2012)

HISTORICAL COMMITTEE

- 2-801. Establishment and purpose.
- 2-802. Organization and membership.
- 2-803. Duties and functions.
- 2-801. <u>Establishment and purpose</u>. There is hereby established a historical committee to maintain a historical archive of the Town of Signal Mountain and Walden's Ridge. (as added by Ord. #2010-3, Jan. 2010, and replaced by Ord. #2012-4, March 2012)
- 2-802. <u>Organization and membership</u>. (See title 12, chapter 1, "General Board and Commission Requirements," §§ 2-101--2-107.) The committee shall be comprised of up to seven (7) Signal Mountain residents, at least five (5) who shall reside in the town. (as added by Ord. #2010-3, Jan. 2010, and replaced by Ord. #2012-4, March 2012)
- 2-803. <u>Duties and functions</u>. The historical committee will research, record, copy and maintain all photographs, printed materials, and artifacts that reference the Town of Signal Mountain and/or Walden's Ridge in the Town of Signal Mountain Archive, currently located at the Signal Mountain Library. The committee may also solicit, accept and recommend gifts and memorials consistent with the donation policy (title 20, chapter 6, "Signal Mountain Donation Policy," §§ 20-601--20-607). (as added by Ord. #2010-3, Jan. 2010, and replaced by Ord. #2012-4, March 2012)

SIGNAL MOUNTAIN PUBLIC LIBRARY BOARD OF DIRECTORS

- 2-901. Public library board of directors established.
- 2-902. Appointment and terms of board members.
- 2-903. Removal from office; filling of vacancies.
- 2-904. Authority and responsibility of library board.
- 2-901. <u>Public library board of directors established</u>. (1) There is hereby established a public library board of directors which shall consist of eleven (11) members, of whom at least nine (9) shall be residents of the Town of Signal Mountain. The members shall serve without compensation.
- (2) One (1) member of the Signal Mountain Town Council shall serve on the board. Such member shall not be eligible to serve as an officer of the board.
- (3) Tennessee's <u>Standards for Non-Metropolitan Public Libraries</u> call for diversity among library board members. At least one (1) member should have work experience in a technology management related field, and at least one (1) member should be a board member of a key community service organization. (as added by Ord. #2010-3, Jan. 2010, replaced by Ord. #2012-4, March 2012, and Ord. #2017-08, Oct. 2017, and amended by Ord. #2021-01, Feb. 2021 *Ch20_06-28-21*)
- 2-902. Appointment and terms of board members. (1) Members shall be appointed by the Signal Mountain Town Council. Terms shall be staggered so that no more than three (3) terms expire in any given year. Board members may serve no more than two (2) consecutive three (3) year terms but may be reappointed after a minimum three (3) year break in service.
- (2) Board members appointed to fill vacated positions for a partial term pursuant to § 2-903 of this chapter may additionally serve two (2) consecutive terms after completing the unexpired vacated term to which they were appointed. (as added by Ord. #2010-3, Jan. 2010, and replaced by Ord. #2012-4, March 2012, and Ord. #2017-08, Oct. 2017)
- 2-903. Removal from office; filling of vacancies. Any member of the library board may be removed from office by majority vote of the town council if they do not attend at least seventy percent (70%) of the meetings of the board, for any neglect of duty by such member, or for any misconduct in office. Vacancies on the library board, occurring otherwise than by normal expiration of a term, shall be filled by the town council for the remaining portion of the unexpired term being vacated. (as added by Ord. #2010-3, Jan. 2010, and replaced by Ord. #2012-4, March 2012, and Ord. #2017-08, Oct. 2017)

- 2-904. <u>Authority and responsibility of library board</u>. (1) The members of the library board shall organize by electing officers and adopting by-laws and regulations. The board has the authority to direct all the affairs of the library, including the authority to appoint a library administrator. The administrator shall direct the internal affairs of the library, including hiring and directing such assistants or employees as may be necessary. The board may make and enforce rules and regulations and establish branches of service at its discretion.
- (2) The board may expend funds for the special training and formal education of library personnel; provided that such personnel shall agree to work in the library for at least two (2) years after completing such training and education.
- (3) The board may receive donations, devises and bequests to be used by it directly for library purposes.
- (4) The board may hold and convey realty and personal property and negotiate leases for and on behalf of the library.
- (5) The board shall furnish to the state library agency such statistics and information as may be required, and shall make annual reports to the town council.
- (6) The board may extend the privileges and facilities of the library to persons residing outside of the Town of Signal Mountain upon such terms as it may deem proper.
- (7) The board has the power to make and enforce rules providing penalties for the loss of or injury to library property. The board may establish reasonable fines for late-returned library materials and fees for special services including, but not limited to, the loan of equipment and the use of photocopiers.
- (8) The title to all property acquired by a library board operating under this chapter shall be taken in the name of the Town of Signal Mountain for the use and benefit of the public library, and the proceeds from all activities conducted by the library board or from any disposition of its assets shall be taken in the name of the Town of Signal Mountain for the use and benefit of the public library.
- (9) The board shall have the authority and responsibility to reasonably restrict the access of any person listed on the sexual offender registry in accordance with <u>Tennessee Code Annotated</u>, § 40-39-216. Such authority may be delegated by the board to the library administrator.
- (10) The operation of the Signal Mountain Public Library shall be in accordance with all applicable federal and state laws and regulations and, except as otherwise provided, the charter, codes and policies of the Town of Signal Mountain including, but not limited to, purchasing and budget guidelines and personnel policies. (as added by Ord. #2017-08, Oct. 2017)

MOUNTAIN ARTS COMMUNITY CENTER BOARD

- 2-1001. Establishment and purpose.
- 2-1002. Organization and membership.
- 2-1003. Duties and functions.
- 2-1001. <u>Establishment and purpose</u>. There is hereby established a Mountain Arts Community Center Board to act in an advisory capacity to the MACC director, the town manager, and the town council to provide and facilitate artistic, cultural, civic, and educational activities that foster personal growth and benefit the community. (as added by Ord. #2010-3, Jan. 2010, and replaced by Ord. #2012-4, March 2012)
- 2-1002. <u>Organization and membership</u>. (See title 2, chapter 1, "General Board and Commission Requirements," §§ 2-101--2-107.) The board shall consist of seven (7) members, at least five (5) who shall reside in the town. (as added by Ord. #2010-3, Jan. 2010, and replaced by Ord. #2012-4, March 2012)
- 2-1003. <u>Duties and functions</u>. The MACC board is a working board. Its duties and functions shall include but not be limited to providing and recommending policies, general improvements, programs, and other functions that will benefit the advancement and success of the MACC as an active, viable arts and cultural center for the Signal Mountain community. The board shall also solicit, accept and recommend gifts and memorials consistent with the donation policy (title 20, chapter 6, "Signal Mountain Donation Policy," §§ 20-601--20-607). (as added by Ord. #2010-3, Jan. 2010, and replaced by Ord. #2012-4, March 2012)

MUNICIPAL PLANNING COMMISSION

- 2-1101. Establishment and purpose.
- 2-1102. Organization and membership.
- 2-1103. Duties and functions.
- 2-1101. Establishment and purpose. As directed by the town charter, Private Acts, chapter 126, article II, "Powers," section 1, (30) there is hereby established a municipal planning commission under the provisions of Tennessee Code Annotated, title 13, chapter 4, section 101, "Municipal Planning," hereinafter referred to as the planning commission, to maintain the town as a predominantly single-family residential community by protecting existing and future land areas from encroachment by incompatible land uses and endeavoring to prevent commercial, industrial and multi-family development from impairing the property values of single-family residential areas within the town in accordance with the "comprehensive land use plan." (as added by Ord. #2010-3, Jan. 2010, and replaced by Ord. #2012-4, March 2012)
- 2-1102. Organization and membership. (See title 2, chapter 1, "General Board and Commission Requirements," §§ 2-101--2-107.) The planning commission shall consist of nine (9) residents of the town; two (2) who shall be the mayor and a councilmember, as appointed by a majority of the town council. The terms of the mayor and the councilmember shall run concurrently with their terms of office, and they shall serve as contributing, voting members of the planning commission. The mayor may appoint another councilmember to serve in his place if approved by a majority of the town council.

From among its membership, the planning commission shall appoint a secretary who shall have the custody of its books and records. The secretary shall keep a proper record of planning commission proceedings, recording the vote of each member upon each question or if a member is absent or fails to vote. The secretary or a designated representative of the commission shall sign off on final plats prior to their recording.

The secretary on behalf of the planning commission shall make an annual report to the town council giving a summary of the commission's work during the preceding year to include recommendations for future projects and recommendations for public improvements that, in its judgment, should be undertaken. The secretary shall serve at the will and pleasure of the commission.

The planning commission shall meet at the beginning of each year for the purpose of electing officers, and it shall thereafter meet not less than once every three (3) months and at such times and places as it may fix by resolution. Its

chairman or secretary may call special meetings from time to time. (as added by Ord. #2010-3, Jan. 2010, and replaced by Ord. #2012-4, March 2012)

- 2-1103. <u>Duties and functions</u>. In accordance with <u>Tennessee Code Annotated</u>, § 13-4-101, <u>et seq.</u>, "Municipal Planning," and town code, Appendix A, "Town of Signal Mountain, Tennessee Zoning Regulations and Amendments," articles I-XXIV), the planning commission's duties and functions shall include but not be limited to the following:
- (1) <u>Collect data and keep informed</u>. Each member of the planning commission shall be required to stay current in the art of municipal planning and zoning by completing four (4) hours of training per year to remain qualified to act on matters that affect the present and future movements of traffic, the convenience and safety of persons and property, the health, recreation and general welfare and the use of buildings, structures and land for trade, industry, residence, recreation, public activities and all other needs of the town that are dependent upon a town plan.
- (2) Work in cooperation with town departments and employees. The various departments of the government of the town and the employees thereof shall give the planning commission all possible assistance, advice and cooperation consistent with the performance of the other duties required of them by law or assigned to them by the town manager.
- (3) Make maps and plans of the whole or any portion of the town or any land outside of the town, which bears a relation to the planning and future growth of the municipality and to make changes in the plans and maps as necessary. The plans shall show the planning commission's recommendations for any streets, alleys, ways, viaducts, bridges, subways, railroads, terminals, transit lines, parkways, parks, playgrounds or any other public grounds or public improvements and the removal, relocation of, widening or extension of such public works then existing.
- (4) Certify to the town council a zoning plan, in accordance with Tennessee Code Annotated, § 13-4-201, which shall include both a full text of a proposed zoning ordinance and maps, representing the recommendations of the planning commission for the regulation by districts or zones of the location, height, bulk, number of stories and size of buildings and other structures, the size of yards, courts and other open spaces, the density of population and the uses of buildings, structures and land for trade, industry, residence, recreation, public activities and other purposes. In making such recommendations, the planning commission shall take into consideration the present character of the district, the value of the land therein and the character of the building thereon, the peculiar suitability of the district for a particular use and other considerations which will promote the public health, safety, convenience and general welfare.
- (5) Carry out its power and authority to review plats and develop regulations for the subdivision of land within the limits of the town and decide

whether to permit or deny such plat applications. The planning commission's review shall include, but is not limited to, subdivision and right-of-way designs; access, frontage, depth and area of lots; drainage, easements, utility layout and designs; street grades; and conformity to official plans. In addition, the planning commission may require additional information and data be furnished by applicants on particular matters of concern.

- (6) Hire the services of architects, engineers and contract for other professional services or appoint clerks, draftsmen and other subordinates, as it shall deem necessary for the performance of its functions with approval of the town manager.
- (7) Carry out all of its powers, functions and duties in accordance with all applicable provisions of <u>Tennessee Code Annotated</u>, title 13. (as added by Ord. #2010-3, Jan. 2010, and replaced by Ord. #2012-4, March 2012)

PARKS BOARD

- 2-1201. Establishment and purpose.
- 2-1202. Organization and membership.
- 2-1203. Duties and functions.
- 2-1201. <u>Establishment and purpose</u>. There is hereby established a parks board to act in an advisory capacity to the recreation director, the town manager, and the town council on all issues related to parks in the town. (as added by Ord. #2010-3, Jan. 2010, and replaced by Ord. #2012-4, March 2012)
- 2-1202. <u>Organization and membership</u>. (See title 2, chapter 1, "General Board and Commission Requirements," §§ 2-101--2-107.) The board shall consist of seven (7) members, five (5) who shall be residents of the town. (as added by Ord. #2010-3, Jan. 2010, and replaced by Ord. #2010-17, Oct. 2010, and Ord. #2012-4, March 2012)
- 2-1203. <u>Duties and functions</u>. The board shall provide recommendations concerning all facets of public parks including, but not limited to, recommending general park rules (title 20, chapter 5, "Signal Mountain Park Regulations and Guidelines," §§ 20-501--20-504); signage for designating, creating and maintaining trails; organizing volunteers for park activities; and organizing public activities to promote usage of parks for physical activity, education and enjoyment of nature. The board shall also solicit, accept and recommend gifts and memorials consistent with the donation policy (see title 20, chapter 6, "Signal Mountain Donation Policy," §§ 20-601--20-607). (as added by Ord. #2010-3, Jan. 2010, and replaced by Ord. #2012-4, March 2012)

PERSONNEL COMMITTEE

- 2-1301. Establishment and purpose.
- 2-1302. Organization and membership.
- 2-1303. Duties and functions.
- 2-1301. <u>Establishment and purpose</u>. There is hereby established a personnel committee to serve in an advisory capacity to the town manager and the town council. (as added by Ord. #2010-3, Jan. 2010, and replaced by Ord. #2012-4, March 2012)
- 2-1302. <u>Organization and membership</u>. (See title 2, chapter 1, "General Board and Commission Requirements," §§ 2-101--2-107). The committee shall be composed of five (5) residents of the town with expertise in business, human resource, insurance benefits or other pertinent experience. (as added by Ord. #2010-3, Jan. 2010, and replaced by Ord. #2012-4, March 2012)
- 2-1303. <u>Duties and functions</u>. The personnel committee shall study and evaluate all aspects of employee personnel policy, job descriptions, pay plans, benefits, and any other personnel issues as requested by the town manager and/or the town council and make recommendations for changes or improvements in same. (as added by Ord. #2010-3, Jan. 2010, and replaced by Ord. #2012-4, March 2012)

RECREATION BOARD

- 2-1401. Establishment and purpose.
- 2-1402. Organization and membership.
- 2-1403. Duties and functions.
- 2-1401. <u>Establishment and purpose</u>. There is hereby created a recreation board to serve in an advisory capacity to the recreation director, the town manager and the town council concerning all facets of recreation activities in the town. (as added by Ord. #2010-3, Jan. 2010, and replaced by Ord. #2012-4, March 2012)
- 2-1402. <u>Organization and membership</u>. (See title 2, chapter 1, "General Board and Commission Requirements," §§ 2-101--2-107.) The board shall consist of seven (7) members, at least five (5) who shall be residents of the town. Members of the recreation board shall not sit concurrently on any board of a Signal Mountain recreation league or organization. (as added by Ord. #2010-3, Jan. 2010, and replaced by Ord. #2012-4, March 2012)
- 2-1403. <u>Duties and functions</u>. The recreation board shall advance the mission of the Signal Mountain Recreation Department to provide quality recreation programs, to utilize the facilities as fully as possible, and to increase the number and diversity of recreation facilities and activities in Signal Mountain. The duties and functions of the board shall be to recommend policies and goals designed to fulfill the recreation needs and objectives of the community to the recreation director, the town manager, and the town council to include, but not limited to:
 - (1) Recommending spending priorities for recreation purposes.
- (2) Recommending fee structures for all town recreation activities and leagues.
 - (3) Collecting financial data from leagues.
 - (4) Recommending event schedules for activities.
- (5) Reviewing the organization of participating leagues to ensure proper communication to the board and compliance with the established recreation goals of the community.
- (6) Requesting a listing from each league at the beginning and end of its season suggesting maintenance and improvements to town recreation facilities.
- (7) Entertaining suggestions, complaints, and/or comments from league representatives, interested citizens or other parties pertaining to the recreation policies of the town.

The board shall also solicit, accept and recommend gifts and memorials consistent with the donation policy (title 20, chapter 6, "Signal Mountain Donation Policy," $\S\S 20-601-20-607$). (as added by Ord. #2010-3, Jan. 2010, and replaced by Ord. #2012-4, March 2012)

STORMWATER APPEALS BOARD¹

- 2-1501. Establishment and purpose.
- 2-1502. Organization and membership.
- 2-1503. Duties and functions.
- 2-1504. Appeals.
- 2-1501. <u>Establishment and purpose</u>. A stormwater appeals board is hereby established to address citizens' appeals to stormwater determinations and fees within the town (title 18, chapter 8,² "Stormwater Utility Ordinance," § 18-802, "Creation of stormwater board and utility" and <u>Tennessee Code Annotated</u>, § 68-221-1011). (as added by Ord. #2010-3, Jan. 2010, and replaced by Ord. #2012-4, March 2012)
- 2-1502. Organization and membership. (See title 2, chapter 1, "General Board and Commission Requirements," §§ 2-101--2-107.) The board shall consist of eight (8) members as follows: the town manager, the town recorder, the public works director, the water department director, the police chief or his designee, the fire chief or his designee, the building official, and a citizen representative. The board shall meet only as needed and when called by the town manager. (as added by Ord. #2010-3, Jan. 2010, and replaced by Ord. #2012-4, March 2012)
- 2-1503. <u>Duties and functions</u>. The board shall be responsible for hearing citizens' appeals relating to stormwater violations, calculations and fees levied by the town. Appeals regarding user fees must be made within thirty (30) days from the date of the last bill. Appeals requests shall detail the grounds for the appeal and be made in writing. Additional information may be required by the town manager. (as added by Ord. #2010-3, Jan. 2010, and replaced by Ord. #2012-4, March 2012)
- 2-1504. Appeals. Adjustment to stormwater fees, either upward or downward, may be considered based on re-calculation and/or stormwater reduction rates due to improved management practices or other means (see title

¹Municipal code reference Stormwater appeals board: § 18-742.

²Ord. #2012-4 referred to "Stormwater Utility Ordinance." The correct chapter for "Stormwater Utility Ordinance" is chapter 8 and has been corrected.

18, \S 18-812, "Appeals of fees"). (as added by Ord. #2010-3, Jan. 2010, and replaced by Ord. #2012-4, March 2012)

TREE BOARD

- 2-1601. Establishment and purpose.
- 2-1602. Organization and membership.
- 2-1603. Duties and functions.
- 2-1601. <u>Establishment and purpose</u>. (See title 13, chapter 2, "Municipal Landscape Ordinance," § 13-203). There is hereby established a tree board to protect the town's extensive resource of native trees as significant to the environment and as a part of the natural beauty of the town through tree advocacy and education. (as added by Ord. #2010-3, Jan. 2010, and replaced by Ord. #2012-4, March 2012)
- 2-1602. <u>Organization and membership</u>. (See title 2, chapter 1, "General Board and Commission Requirements," §§ 2-101--2-107.) The Signal Mountain Tree Board shall consist of seven (7) members, at least five (5) who shall be residents of the town. Members of the tree board should have some educational and/or professional experience concerning landscaping and/or trees, which may include such occupations as landscape architect, arborist, forester, gardener, master gardener, teacher, botanist or biologist. (as added by Ord. #2010-3, Jan. 2010, and replaced by Ord. #2012-4, March 2012)
- 2-1603. <u>Duties and functions</u>. (1) The tree board shall serve in an advisory capacity to the town manager and the town council to recommend the adoption of programs, policies, and regulations for the planting, maintenance, and protection of trees. The board shall also organize an Arbor Day celebration and re-apply each year to maintain the town's designation as a National Arbor Day Foundation "Tree City USA."
- (2) Other functions of the board shall include, but are not limited to, planting trees; caring for trees; operating an honor tree program to enable donors to purchase trees and specially inscribed markers to honor individuals or groups, commemorate events or for living memorials; providing general advice and recommendations about trees, tree planting and tree maintenance to the general public, town employees, builders, and community groups through educational outreach (see title 13, chapter 2, "Municipal Landscape Ordinance," §§ 13-201--13-221).
- (3) Capital needs to support the board's programs shall include fund-raising and/or soliciting gifts, memorials and donations consistent with the donation policy (title 20, chapter 6, "Signal Mountain Donation Policy," §§ 20-601--20-607). (as added by Ord. #2010-3, Jan. 2010, and replaced by Ord. #2012-4, March 2012)

TITLE 3

MUNICIPAL COURT

CHAPTER

- 1. MUNICIPAL COURT.
- 2. TOWN JUDGE.

CHAPTER 1

MUNICIPAL COURT¹

- 3-101. Bond.
- 3-102. Judge pro tem.
- 3-103. Maintenance of docket.
- 3-104. Issuance of arrest warrants.
- 3-105. Issuance of summons.
- 3-106. Issuance of subpoenas.
- 3-107. Trial and disposition of cases.
- 3-108. Appeals.
- 3-109. Appearance bonds.
- 3-110. Imposition of fines, penalties, taxes and costs.
- 3-111. Manner of imposing and recording fines and costs.
- 3-112. Disposition of fines, penalties and costs.
- 3-113. Disturbance of proceedings.
- 3-114. Collection agencies.
- 3-101. <u>Bond</u>. Before assuming his duties, the town judge shall execute a bond in a responsible bonding company in the amount of one thousand dollars (\$1,000.00) conditioned to faithfully account for all funds coming into his hands as such judge. This bond shall be paid for by the Town of Signal Mountain. (1985 Code, § 1-305)
- 3-102. <u>Judge pro tem</u>. Should the town judge be absent or unable to attend court or disqualify himself from hearing a particular case, he may choose a judge pro-tem to sit in his place and stead. This judge pro-tem shall have all the qualifications required of the judge of the town court and shall preside and adjudicate and have all the powers and be liable to all of the responsibilities of a regular judge. Before serving, the judge pro-tem shall take the oath prescribed for the regular judge. In the event the town judge is absent or disabled so that he cannot pick a judge pro-tem then the Signal Mountain Town Council shall

¹See Article XI, <u>"Town Court"</u>, of the charter for duties and powers of the Town Judge, court policies and procedures, etc.

appoint a town judge pro-tem to serve until the regular judge returns. (Ord. #87-10, Oct. 1988, modified)

- 3-103. <u>Maintenance of docket</u>. The town 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 and cost imposed and whether collected for or committed to workhouse and all other information that may be relevant. (1985 Code, § 1-308)
- 3-104. <u>Issuance of arrest warrants</u>.¹ Only the town judge 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. (1985 Code, § 1-309)
- 3-105. <u>Issuance of summonses</u>. When a complaint of an alleged ordinance violation is made to the town judge, the judge may, in his discretion in lieu of issuing an arrest warrant, issue a summons ordering the alleged defendant to personally 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 ordinance alleged to have been violated. Upon failure of any person to appear before the court as commanded in a summons lawfully served upon 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. (1985 Code, § 1-310)
- 3-106. <u>Issuance of subpoenas</u>. The town 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. (1985 Code, § 1-311)
- 3-107. <u>Trial and disposition of cases</u>. Every person charged with violating a town ordinance shall be entitled to an immediate trial and disposition of his case, provided the town court is in session or the town 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. (1985 Code, § 1-312)

¹See <u>Tennessee Code Annotated</u>, title 40, chapter 5, for authority to issue search warrants.

- 3-108. Appeals. Any defendant who is dissatisfied with any judgment of the town court against him may, within ten (10) days next after such judgment is rendered, appeal to the next term of the circuit court upon posting a proper appeal bond. (1985 Code, § 1-313)
- 3-109. Appearance bonds. (1) When the town judge is not available or when an alleged offender requests and has 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 town judge or, in the absence of the judge, with the ranking police officer on duty at the time, provided such alleged offender is not drunk or otherwise in need of protective custody.
- (2) An appearance bond in any case before the town court shall be in such amount as the town 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 the sum of two hundred and fifty dollars (\$250.00) and shall be conditioned that if the criminal court shall find against the appellant the fine 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 company authorized to do business in Tennessee or by two (2) private persons who individually own real property located within the county. No other type bond shall be acceptable. (1985 Code, § 1-314)
- 3-110. <u>Imposition of fines, penalties, taxes and costs</u>. (1) In all cases heard and determined in the municipal court of the Town of Signal Mountain for the violation of ordinances of said town:
 - (a) The judge shall impose court costs, in addition to all fines and penalties, in the amount of seventy five dollars and twenty five cents (\$75.25).
 - (b) A five dollar (\$5.00) continuance fee shall be assessed when a continuance is requested by the defendant (after the first free continuance).¹
 - (c) Contempt of court shall be punished by a fine of fifty dollars (\$50.00), or such lesser amount as may be imposed at the judge's discretion.
 - (d) The clerk shall add to any cost bill any additional state taxes and fees as prescribed by law.²

¹State law reference

<u>Tennessee Code Annotated</u>, §§ 8-21-401, 16-18-304, 16-18-305(a), and 67-4-602.

²State law reference

- (2) In all state criminal cases heard and determined in the court of general sessions of the Town of Signal Mountain:
 - (a) The judge shall impose court costs, in addition to all fines and penalties, in the amount of eighty three dollars and fifty cents (\$83.50).
 - (b) Costs, taxes, fines and fees shall be imposed as set forth by state law. 1
 - (c) A citation in lieu of arrest fee of twenty five dollars (\$25.00) will be imposed as necessary.
 - (d) Arrest, transportation,, bail bond and service of process fees shall be imposed as set forth by state law.²
 - (e) Head and spinal cord injury fees shall be imposed as set forth by state law.³
 - (f) Alcohol and drug related offense fees shall be imposed as set forth by state law.⁴
 - (g) A jail fee shall be imposed as necessary as set forth by the Hamilton County Board of Commissioners Resolution No. 511-3 as said resolution now exists or is hereafter amended or replaced.
 - (h) Fees for expungements will be collected and disbursed as required by state law.⁵
- (3) All fines from drug offenses shall be disbursed as required by state law. 6 (1985 Code, § 1-315, as replaced by Ord. #2007-15, Dec. 2007, and Ord. #2014-08, Sept. 2014)

Tennessee Code Annotated, §§ 16-18-304, 16-18-305(a), and 67-4-602(d).

Tennessee Code Annotated, §§ 16-18-304, 16-18-305(a), and 67-4-602(d).

Tennessee Code Annotated, § 8-21-901.

Tennessee Code Annotated, §§ 68-55-301 through 68-55-306.

⁴State law reference

Tennessee Code Annotated, §§ 39-17-428 and 55-10-401.

⁵State law reference

Tennessee Code Annotated, §§ 8-21-401 and 40-32-101.

⁶State law reference

Tennessee Code Annotated, § 39-17-428.

²(...continued)

¹State law reference

²State law reference

³State law reference

- 3-111. <u>Manner of imposing and recording fines and costs</u>. All fines and costs shall be imposed and recorded by the town 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. (1985 Code, § 1-316)
- 3-112. <u>Disposition of fines, penalties and costs</u>. All funds coming into the hands of the town judge in the form of fines, costs and forfeitures shall be recorded by him and paid over daily to the town. (1985 Code, § 1-317)
- 3-113. <u>Disturbance of proceedings</u>. It shall be unlawful for any person to create any disturbance of any trial, or other proceedings, before the town court by make loud or unusual noises, by using indecorous, profane or blasphemous language, or by any distracting conduct whatsoever. (1985 Code, § 1-318)
- 3-114. Collection agencies. The Town of Signal Mountain is authorized to employ a collection agency to collect fines and costs assessed by the municipal court where the fines and costs have not been collected within sixty (60) days after they were due. Any fees of the collection agency shall be assessed as court costs in connection with the town offense. Any such contract with a collection agency shall be in writing, and shall include a provision specifying that the collection agency may institute an action to collect fines and costs in a judicial proceeding when authorized by the town manager. The collection agency may be paid an amount approved by the town manager which does not exceed any statutorily approved fees authorized by Tennessee Code Annotated, § 40-24-105(d.) (as added by Ord. #2009-20, Dec. 2009)

TOWN JUDGE

- 3-201. Compensation.
- 3-202. Benefits.
- 3-203. Dates court is in session.
- 3-201. <u>Compensation</u>. The compensation for the town judge during the eight (8) year term will be set at fifteen thousand dollars (\$15,000.00) annually and paid in monthly increments during the entire term. (as added by Ord. #2006-4, May 2006)
- 3-202. <u>Benefits</u>. There will be no other benefits afforded the town judge during the term. (as added by Ord. #2006-4, May 2006)
- 3-203. <u>Dates court is in session</u>. Court shall be regularly scheduled in session twice a month on the first Tuesday and third Thursday of each month. The court may make exceptions to those specific days as the town judge deems necessary to avoid proximity to holidays or for other appropriate reasons. Additional court dates may be scheduled as the town judge deems necessary. (as added by Ord. #2006-4, May 2006, and replaced by Ord. #2018-11, Sept. 2018 *Ch19_8-26-19*)

TITLE 4

MUNICIPAL PERSONNEL

CHAPTER

- 1. OCCUPATIONAL SAFETY AND HEALTH PROGRAM.
- 2. SOCIAL SECURITY--TOWN PERSONNEL.
- 3. INFECTIOUS DISEASE CONTROL POLICY.
- 4. TRAVEL REIMBURSEMENT REGULATIONS.

CHAPTER 1

OCCUPATIONAL SAFETY AND HEALTH PROGRAM¹

- 4-101. Title.
- 4-102. Purpose.
- 4-103. Coverage.
- 4-104. Standards authorized.
- 4-105. Variances from standards authorized.
- 4-106. Administration.
- 4-107. Funding the program plan.
- 4-108. Severability.
- 4-109-4-112. [Deleted.]
- 4-101. <u>Title</u>. This section shall be known as "The Occupational Safety and Health Program Plan" for the employees of the Town of Signal Mountain. (1985 Code, \S 1-901, as replaced by Ord. #2008-2, Feb. 2008, Ord. #2013-16, Aug. 2013, and Ord. #2021-06, May 2021 *Ch20 06-28-21*)
- 4-102. <u>Purpose</u>. The Town of Signal Mountain, in electing to update the established program plan, will maintain an effective and comprehensive occupational safety and health program plan for its employees and shall:
- (1) Provide a safe and healthful place and condition of employment that includes:
 - (a) Top management commitment and employee involvement;
 - (b) Continually analyze the worksite to identify all hazards and potential hazards;
 - (c) Develop and maintain methods for preventing or controlling existing or potential hazards; and

¹See Article VIII, "<u>Administration</u>," of the charter for authority to adopt personnel rules.

- (d) Train managers, supervisors, and employees to understand and deal with worksite hazards.
- (2) Acquire, maintain and require the use of safety equipment, personal protective equipment and devices reasonably necessary to protect employees.
- (3) Make, keep, preserve, and make available to the Commissioner of Labor and Workforce Development, or persons within the Department of Labor and Workforce Development to whom such responsibilities have been delegated, adequate records of all occupational accidents and illnesses and personal injuries for proper evaluation and necessary corrective action as required.
- (4) Consult with the State Commissioner of Labor and Workforce Development with regard to the adequacy of the form and content of records.
- (5) Consult with the State Commissioner of Labor and Workforce Development, as appropriate, regarding safety and health problems which are considered to be unusual or peculiar and are such that they cannot be achieved under a standard promulgated by the state.
- (6) Provide reasonable opportunity for the participation of employees in the effectuation of the objectives of this program plan, including the opportunity to make anonymous complaints concerning conditions or practices injurious to employee safety and health.
- (7) 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. plan (1985 Code, § 1-902, as replaced by Ord. #2008-2, Feb. 2008, Ord. #2013-16, Aug. 2013, and Ord. #2021-06, May 2021 *Ch20_06-28-21*)
- 4-103. <u>Coverage</u>. The provisions of the Occupational Safety and Health Program Plan for the employees of the Town of Signal Mountain shall apply to all employees of each administrative department, commission, board, division, or other agency whether part-time or full-time, seasonal or permanent. (1985 Code, \S 1-903, as replaced by Ord. #2008-2, Feb. 2008, Ord. #2013-16, Aug. 2013, and Ord. #2021-06, May 2021 *Ch20_06-28-21*)
- 4-104. Standards authorized. The occupational safety and health standards adopted by the Town of Signal Mountain are the same as, but not limited to, the State of Tennessee Occupational Safety and Health Standards promulgated, or which may be promulgated, in accordance with section 6 of the Tennessee Occupational Safety and Health Act of 1972 (Tennessee Code Annotated, title 50, chapter 3). (1985 Code, § 1-904, as replaced by Ord. #2008-2, Feb. 2008, Ord. #2013-16, Aug. 2013, and Ord. #2021-06, May 2021 Ch20_06-28-21)
- 4-105. <u>Variances from standards authorized</u>. Upon written application to the Commissioner of Labor and Workforce Development of the State of

Tennessee, the town may 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 and Health, VARIANCES FROM OCCUPATIONAL SAFETY AND HEALTH STANDARDS, CHAPTER 0800-01-02, as authorized by Tennessee Code Annotated, title 50. Prior to requesting such temporary variance, we will notify or serve notice to our 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 shall be deemed sufficient notice to employees. (as added by Ord. #2003-4, June 2003, as replaced by Ord. #2008-2, Feb. 2008, Ord. #2013-16, Aug. 2013, and Ord. #2021-06, May 2021 Ch20_06-28-21)

- 4-106. <u>Administration</u>. For the purposes of this chapter, the town manager is designated as the safety director of occupational safety and health to perform duties and to exercise powers assigned to plan, develop, and administer this program plan. The safety director shall develop a plan of operation for the program plan in accordance with Rules of Tennessee Department of Labor and Workforce Development Occupational Safety and Health, SAFETY AND HEALTH PROVISIONS FOR THE PUBLIC SECTOR, CHAPTER 0800-01-05, as authorized by <u>Tennessee Code Annotated</u>, title 50. (as added by Ord. #2003-4, June 2003, as replaced by Ord. #2008-2, Feb. 2008, Ord. #2013-16, Aug. 2013, and Ord. #2021-06, May 2021 *Ch20_06-28-21*)
- 4-107. <u>Funding the program plan</u>. Sufficient funds for administering and staffing the program plan pursuant to this chapter shall be made available as authorized by the Town of Signal Mountain. (as added by Ord. #2003-4, June 2003, as replaced by Ord. #2008-2, Feb. 2008, Ord. #2013-16, Aug. 2013, and Ord. #2021-06, May 2021 *Ch20 06-28-21*)
- 4-108. <u>Severability</u>. 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 separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions hereof. (as added by Ord. #2003-4, June 2003, as replaced by Ord. #2008-2, Feb. 2008, Ord. #2013-16, Aug. 2013, and Ord. #2021-06, May 2021 *Ch20_06-28-21*)
- 4-109-4-112. [Deleted.] (as deleted by Ord. #2021-06, May 2021 ${\it Ch20_06-28-21}$)

SOCIAL SECURITY

- 4-201. Policy and purpose as to coverage.
- 4-202. Necessary agreements to be executed.
- 4-203. Withholdings from salaries or wages.
- 4-204. Appropriations for employer's contributions.
- 4-205. Records and reports.
- 4-206. Persons excluded from coverage.
- 4-201. Policy and purpose as to coverage. It is hereby declared to be the policy and purpose of the town to provide for all eligible employees and officials of the town, not excluded by law or this chapter, 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. (1985 Code, § 1-801)
- 4-202. <u>Necessary agreements to be executed</u>. 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 this chapter. (1985 Code, § 1-802)
- 4-203. 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. (1985 Code, § 1-803)
- 4-204. 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. (1985 Code, § 1-804)
- 4-205. Records and reports. The comptroller shall keep such records and make such reports as may be required by applicable state and federal laws or regulations. (1985 Code, § 1-805)

4-206. <u>Persons excluded from coverage</u>. There is hereby excluded from this chapter any authority to make any agreement with respect to any position or any employee or official, compensation for which is on a fee basis or any position or any employee or official not authorized to be covered by applicable state or federal laws or regulations. (1985 Code, § 1-806)

INFECTIOUS DISEASE CONTROL POLICY

SECTION

- 4-301. General information.
- 4-302. General policies and procedures.
- 4-303. Vaccinations, testing and post-exposure management.
- 4-304. Training.
- 4-305. Records and reports.
- 4-306. Legal rights of victims of communicable diseases.
- 4-301. General information. (1) Purpose. It is the responsibility of the Town of Signal Mountain to provide employees a place of employment which is free from recognized hazards that may cause death or serious physical harm. In providing services to the citizens of the Town of Signal Mountain, employees may come in contact with life-threatening infectious diseases which can be transmitted through job related activities. It is important that both citizens and employees are protected from the transmission of diseases just as it is equally important that neither is discriminated against because of basic misconceptions about various diseases and illnesses.

The purpose of this policy is to establish a comprehensive set of rules and regulations governing the prevention of discrimination and potential occupational exposure to Hepatitis B Virus (HBV), the Human Immunodeficiency Virus (HIV), and Tuberculosis (TB).

- (2) <u>Coverage</u>. Occupational exposures may occur in many ways, including needle sticks, cut injuries or blood spills. Several classes of employees are assumed to be at high risk for blood borne infections due to their routinely increased exposure to body fluids from potentially infected individuals. Those high risk occupations include but are not limited to:
 - (a) Paramedics and emergency medical technicians;
 - (b) Occupational nurses;
 - (c) Housekeeping and laundry workers;
 - (d) Police and security personnel;
 - (e) Firefighters;
 - (f) Sanitation and landfill workers; and
 - (g) Any other employee deemed to be at high risk per this policy and an exposure determination.
- (3) <u>Administration</u>. This infection control policy shall be administered by the town manager or his/her designated representative who shall have the following duties and responsibility:
 - (a) Exercise leadership in implementation and maintenance of an effective infection control policy subject to the provisions of this

chapter, other ordinances, the town charter, and federal and state law relating to OSHA regulations;

- (b) Make an exposure determination for all employee positions to determine a possible exposure to blood or other potentially infectious materials:
- (c) Maintain records of all employees and incidents subject to the provisions of this chapter;
- (d) Conduct periodic inspections to determine compliance with the infection control policy by municipal employees;
- (e) Coordinate and document all relevant training activities in support of the infection control policy;
- (f) Prepare and recommend to the town council any amendments or changes to the infection control policy;
- (g) Identify any and all housekeeping operations involving substantial risk of direct exposure to body fluids and shall address the proper precautions to be taken while cleaning rooms and blood spills; and
- (h) Perform such other duties and exercise such other authority as may be prescribed by the town council.
- (4) <u>Definitions</u>. (a) "Body fluid" fluids that have been recognized by the Center for Disease Control as directly linked to the transmission of HIV and/or HBV and/or to which universal precautions apply: blood, semen, blood products, vaginal secretions, cerebrospinal fluid, synovial fluid, pericardial fluid, amniotic fluid, and concentrated HIV or HBV viruses.
- (b) "Exposure" the contact with blood or other body fluids to which universal precautions apply through contact with open wounds, non-intact skin, or mucous membranes during the performance of an individual's normal job duties.
- (c) "Hepatitis B Virus (HBV)" a serious blood-borne virus with potential for life-threatening complications. Possible complications include: massive hepatic necrosis, cirrhosis of the liver, chronic active hepatitis, and hepatocellular carcinoma.
- (d) "Human Immunodeficiency Virus (HIV)" the virus that causes acquired immunodeficiency syndrome (AIDS). HIV is transmitted through sexual contact and exposure to infected blood or blood components and perinatally from mother to neonate.
- (e) "Tuberculosis (TB)" an acute or chronic communicable disease that usually affects the respiratory system, but may involve any system in the body.
- (f) "Universal precautions" refers to a system of infectious disease control which assumes that every direct contact with body fluid is infectious and requires every employee exposed to direct contact with body fluids to be protected as though such body fluid were HBV or HIV infected. (as added by ord. No. 92-8)

4-302. General policies and procedures. (1) Policy statement. All blood and other potentially infectious materials are infectious for several blood-borne pathogens. Some body fluids can also transmit infections. For this reason, the Center for Disease Control developed the strategy that everyone should always take particular care when there is a potential exposure. These precautions have been termed "universal precautions."

Universal precautions stress that <u>all persons should be assumed to be infectious for HIV and/or other blood-borne pathogens</u>. Universal precautions apply to blood, tissues, and other body fluids which contain visible blood. Universal precautions also apply to semen, (although occupational risk or exposure is quite limited), vaginal secretions, and to cerebrospinal, synovial, pleural, peritoneal, pericardial and amniotic fluids. Universal precautions do not apply to feces, nasal secretions, human breast milk, sputum, saliva, sweat, tears, urine, and vomitus unless these substances contain visible blood.

- (2) <u>General guidelines</u>. General guidelines which shall be used by everyone include:
 - (a) Think when responding to emergency calls and exercise common sense when there is potential exposure to blood or body fluids which require universal precautions.
 - (b) Keep all open cuts and abrasions covered with adhesive bandages which repel liquids.
 - (c) Soap and water kill many bacteria and viruses on contact. If hands are contaminated with blood or body fluids to which universal precautions apply, then wash immediately and thoroughly. Hands shall also be washed after gloves are removed even if the gloves appear to be intact. When soap and water or handwashing facilities are not available, then use a waterless antiseptic hand cleaner according to the manufacturers recommendation for the product.
 - (d) All workers shall take precautions to prevent injuries caused by needles, scalpel blades, and other sharp instruments. To prevent needle stick injuries, needles shall not be recapped, purposely bent or broken by hand, removed from disposable syringes, or otherwise manipulated by hand. After they are used, disposable syringes and needles, scalpel blades and other sharp items shall be placed in puncture resistant containers for disposal. The puncture resistant container shall be located as close as practical to the use area.
 - (e) The city will provide gloves of appropriate material, quality and size for each affected employee. The gloves are to be worn when there is contact (or when there is a potential contact) with blood or body fluids to which universal precautions apply:
 - (1) While handling an individual where exposure is possible;
 - (2) While cleaning or handling contaminated items or equipment;

(3) While cleaning up an area that has been contaminated with one of the above;

Gloves shall not be used if they are peeling, cracked, or discolored, or if they have punctures, tears, or other evidence of deterioration. Employees shall not wash or disinfect surgical or examination gloves for reuse.

- (f) Resuscitation equipment shall be used when necessary. (No transmission of HBV or HIV infection during mouth-to-mouth resuscitation has been documented.) However, because of the risk of salivary transmission of other infectious diseases and the theoretical risk of HIV or HBV transmission during artificial resuscitation, bags shall be used. Pocket mouth-to-mouth resuscitation masks designed to isolate emergency response personnel from contact with a victims' blood and blood contaminated saliva, respiratory secretion, and vomitus, are available to all personnel to provide or potentially provide emergency treatment.
- (g) Masks or protective eyewear or face shields shall be worn during procedures that are likely to generate droplets of blood or other body fluids to prevent exposure to mucous membranes of the mouth, nose, and eyes. They are not required for routine care.
- (h) Gowns, aprons, or lab coats shall be worn during procedures that are likely to generate splashes of blood or other body fluids.
- (i) Areas and equipment contaminated with blood shall be cleaned as soon as possible. A household (chlorine) bleach solution (1 part chlorine to 10 parts water) shall be applied to the contaminated surface as a disinfectant leaving it on for a least 30 seconds. A solution must be changed and re-mixed every 24 hours to be effective.
- (j) Contaminated clothing (or other articles) shall be handled carefully and washed as soon as possible. Laundry and dish washing cycles at 120° are adequate for decontamination.
- (k) Place all disposable equipment (gloves, masks, gowns, etc...) in a clearly marked plastic bag. Place the bag in a second clearly marked bag (double bag). Seal and dispose of by placing in a designated "hazardous" dumpster. NOTE: Sharp objects must be placed in an impervious container and then taken to a hospital for disposal.
- (l) Tags shall be used as a means of preventing accidental injury or illness to employees who are exposed to hazardous or potentially hazardous conditions, equipment or operations which are out of the ordinary, unexpected or not readily apparent. Tags shall be used until such time as the identified hazard is eliminated or the hazardous operation is completed.

All required tags shall meet the following criteria:

(1) Tags shall contain a signal word and a major message. The signal word shall be "BIOHAZARD", or the

biological hazard symbol. The major message shall indicate the specific hazardous condition or the instruction to be communicated to employees.

- (2) The signal word shall be readable at a minimum distance of five (5) feet or such greater distance as warranted by the hazard.
- (3) All employees shall be informed of the meaning of the various tags used throughout the workplace and what special precautions are necessary.
- (m) Linen soiled with body fluids shall be handled as little as possible and with minimum agitation to prevent contamination of the person handling the linen. All soiled linen shall be bagged at the location where it was used. It shall not be sorted or rinsed in the area. Soiled linen shall be placed and transported in bags that prevent leakage.

The employee responsible for transported soiled linen should always wear protective gloves to prevent possible contamination. After removing the gloves, hands or other skin surfaces shall be washed thoroughly and immediately after contact with body fluids.

(n) Whenever possible, disposable equipment shall be used to minimize and contain clean-up. (as added by ord. No. 92-8)

4-307. <u>Vaccinations</u>, testing and post-exposure management.

- (1) <u>Hepatitis B vaccinations</u>. The Town of Signal Mountain shall offer the appropriate Hepatitis B vaccination to employees at risk of exposure free of charge and in amounts and at times prescribed by standard medical practices. The vaccination shall be voluntarily administered. High risk employees who wish to take the HBV vaccination should notify their department head who shall make the appropriate arrangements through the infectious disease control coordinator.
- (2) <u>Reporting potential exposure</u>. City employees shall observe the following procedures for reporting a job exposure incident that may put them at risk for HIV or HBV infections (i.e., needle sticks, blood contact on broken skin, body fluid contact with eyes or mouth, etc...):
 - (a) Notify the infectious disease control coordinator of the contact incident and details thereof.
 - (b) Complete the appropriate accident reports and any other specific form required.
 - (c) Arrangements will be made for the person to be seen by a physician as with any job-related injury.

Once an exposure has occurred, a blood sample should be drawn after consent is obtained from the individual from whom exposure occurred and tested for Hepatitis B surface antigen (HBsAg) and/or antibody to human immunodeficiency virus (HIV antibody). Testing of the source individual should be done at a location where appropriate pretest

counseling is available. Post-test counseling and referral for treatment should also be provided.

(3) <u>Hepatitis B virus post-exposure management</u>. For an exposure to a source individual found to be positive for HBsAg, the worker who has not previously been given the hepatitis B vaccine should receive the vaccine series. A single dose of hepatitis B immune globulin (HBIG) is also recommended, if it can be given within seven (7) days of exposure.

For exposure from an HBsAg-positive source to workers who have previously received the vaccine, the exposed worker should be tested for antibodies to hepatitis B surface antigen (anti-HBs), and given one dose of vaccine and one dose of HBIG if the antibody level in the worker's blood sample is inadequate (ie., 10 SRU by RIA, negative by EIA).

If the source individual is negative for HBsAg and the worker has not been vaccinated, this opportunity should be taken to provide the hepatitis B vaccine series. HBIG administration should be considered on an individual basis when the source individual is known or suspected to be at high risk of HBV infection. Management and treatment, if any, of previously vaccinated workers who receive an exposure from a source who refuses testing or is not identifiable should be individualized.

(4) <u>Human immunodeficiency virus post-exposure management</u>. For any exposure to a source individual who has AIDS, who is found to be positive for HIV infection, or who refuses testing, the worker should be counseled regarding the risk of infection and evaluated clinically and serologically for evidence of HIV infection as soon as possible after the exposure. The worker should be advised to report and seek medical evaluation for any acute febrile illness that occurs within 12 weeks after the exposure. Such an illness, particularly one characterized by fever, rash, or lymphadenopathy, may be indicative of recent HIV infection.

Following the initial test at the time of exposure, seronegative workers should be retested 6 weeks, 12 weeks, and 6 months after exposure to determine whether transmission has occurred. During this follow-up period (especially the first 6 - 12 weeks after exposure) exposed workers should follow the U.S. Public Health service recommendation for preventing transmission of HIV. These include refraining from blood donations and using appropriate protection during sexual intercourse. During all phases of follow-up, it is vital that worker confidentiality be protected.

If the source individual was tested and found to be seronegative, baseline testing of the exposed worker with follow-up testing 12 weeks later may be performed if desired by the worker or recommended by the health care provider. If the source individual cannot be identified, decisions regarding appropriate follow-up should be individualized. Serologic testing should be made available by the town to all workers who may be concerned they have been infected with HIV through an occupational exposure.

- (5) <u>Disability benefits</u>. Entitlement to disability benefits and any other benefits available for employees who suffer from on-the-job injuries will be determined by the Tennessee Worker's Compensations Bureau in accordance with the provisions of <u>Tennessee Code Annotated</u>, § 50-6-303. (as added by ord. No. 92-8)
- 4-304. <u>Training</u> (1) <u>Regular employees</u>. On an annual basis all employees shall receive training and education on precautionary measures, epidemiology, modes of transmission and prevention of HIV/HBV infection and procedures to be used if they are exposed to needle sticks or body fluids. They shall also be counseled regarding possible risks to the fetus from HIV/HBV and other associated infectious agents.
- (2) <u>High risk employees</u>. In addition to the above, high risk employees shall also receive training regarding the location and proper use of personal protective equipment. They shall be trained concerning proper work practices and understand the concept of "universal precautions" as it applies to their work situation. They shall also be trained about the meaning of color coding and other methods used to designate contaminated material. Where tags are used, training shall cover precautions to be used in handling contaminated material as per this policy.
- (3) New employees. During the new employee's orientation to his/her job, all new employee will be trained on the effects of infectious disease prior to putting them to work. (as added by ord. No. 92-8)
- 4-305. Records and reports. (1) Reports. Occupational injury and illness records shall be maintained by the infectious disease control coordinator. Statistics shall be maintained on the OSHA-200 report. Only those work-related injuries that involve loss of consciousness, transfer to another job, restriction of work or motion, or medical treatment are required to be put on the OSHA-200.
- (2) <u>Needle sticks</u>. Needle sticks, like any other puncture wound, are considered injuries for recordkeeping purposes due to the instantaneous nature of the event. Therefore, any needle stick requiring medical treatment (i.e. gamma globulin, hepatitis B immune globulin, hepatitis B vaccine, etc...) shall be recorded.
- (3) <u>Prescription medication</u>. Likewise, the use of prescription medication (beyond a single dose for minor injury or discomfort) is considered medical treatment. Since these types of treatment are considered necessary, and must be administered by physician or licensed medical personnel, such injuries cannot be considered minor and must be reported.
- (4) <u>Employee interviews</u>. Should the town be inspected by the U.S. Department of Labor Office of Health Compliance, the compliance safety and health officer may wish to interview employees. Employees are expected to cooperate fully with the compliance officers. (as added by ord. No. 92-8)

- 4-306. <u>Legal rights of victims of communicable diseases</u>. Victims of communicable diseases have the legal right to expect, and municipal employees, including police and emergency service officers are duty bound to provide, the same level of service and enforcement as any other individual would receive.
- (1) Officers assume that a certain degree of risk exists in law enforcement and emergency service work and accept those risks with their individual appointments. This holds true with any potential risks of contacting a communicable disease as surely as it does with the risks of confronting an armed criminal.
- (2) Any officer who refuses to take proper action in regard to victims of a communicable disease, when appropriate protective equipment is available, shall be subject to disciplinary measures along with civil and, or criminal prosecution.
- (3) Whenever an officer mentions in a report that an individual has or may have a communicable disease, he shall write "contains confidential medical information" across the top margin of the first page of the report.
- (4) The officer's supervisor shall ensure that the above statement is on all reports requiring that statement at the time the report is reviewed and initiated by the supervisor.
- (5) The supervisor disseminating newspaper releases shall make certain the confidential information is not given out to the news media.
- (6) All requests (including subpoenas) for copies of reports marked "contains confidential medical information" shall be referred to the town attorney when the incident involves an indictable or juvenile offense.
- (7) Prior approval shall be obtained from the town attorney before advising a victim of sexual assault that the suspect has, or is suspected of having a communicable disease.
- (8) All circumstance, not covered in this policy, that may arise concerning releasing confidential information regarding a victim, or suspected victim, of a communicable disease shall be referred directly to the appropriate department head or town attorney.
- (9) Victims of a communicable disease and their families have a right to conduct their lives without fear of discrimination. An employee shall not make public, directly or indirectly, the identity of a victim or suspected victim of a communicable disease.
- (10) Whenever an employee finds it necessary to notify another employee, police officer, firefighter, emergency service officer, or health care provider that a victim has or is suspected of having a communicable disease, that information shall be conveyed in a dignified, discrete and confidential manner. The person to whom the information is being conveyed should be reminded that the information is confidential and that it should not be treated as public information.
- (11) Any employee who disseminates confidential information in regard to a victim, or suspected victim of a communicable disease in violation of this

policy shall be subject to serious disciplinary action and/or civil/and/or criminal prosecution. (as added by ord. No. 92-8)

TRAVEL REIMBURSEMENT REGULATIONS

SECTION

- 4-401. Purpose.
- 4-402. Enforcement.
- 4-403. Travel policy.
- 4-404. Travel reimbursement rate schedules.
- 4-405. Administrative procedures.
- 4-401. <u>Purpose</u>. 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 inviduals traveling on town business at town expense. (as added by Ord. #93-10, § 1, July 1993)

- 4-402. <u>Enforcement</u>. The chief administrative officer (CAO) of the town or his or her designee shall be responsible for the enforcement of these travel regulations. (as added by Ord. #93-10, § 2, July 1993)
- 4-403. <u>Travel policy</u>. (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 town business, unless the person(s) otherwise qualifies as an authorized traveler under this chapter.
- (2) Authorized travelers are entitled to reimbursement of certain expenditures incurred while traveling on official business for the town. Reimbursable expenses shall include expenses for transportation; lodging; meals; registration fees for conferences, conventions, and seminars; and other actual and necessary expenses related to official business as determined by the CAO. Under certain conditions, entertainment expenses may be eligible for reimbursement.

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

Travel advance requests aren't considered documentation of travel expenses. If travel advances exceed documented expenses, the traveler must immediately reimburse the town. It will be the responsibility of the CAO to initiate action to recover any undocumented travel advances.

- (4) Travel advances are available only for special travel and only after completion and approval of the travel authorization form.
- (5) The travel expense reimbursement form will be used to document all expense claims.
 - (6) To qualify for reimbursement, travel expenses must be:
 - directly related to the conduct of the town business for which travel was authorized, and
 - ° actual, reasonable, and necessary under the circumstances. The CAO may make exceptions for unusual circumstances.

Expenses considered excessive won't be allowed.

- (7) Claims of \$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 aren't ordinarily considered eligible expenses for reimbursement. (as added by Ord. #93-10, § 3, July 1993)
- 4-404. <u>Travel reimbursement rate schedules</u>. Authorized travelers shall be reimbursed according to the State of Tennessee travel regulation rates. The town's travel reimbursement rates will automatically change when the state rates are adjusted.

The municipality may pay directly to the provider for expenses such as meals, lodging, and registration fees for conferences, conventions, seminars, and other education programs. (as added by Ord. #93-10, § 4, July 1993)

4-405. <u>Administrative procedures</u>. The town adopts and incorporates by reference - as if fully set out herein the administrative procedures submitted by MTAS to, and approved by letter by, the Comptroller of the Treasury, State of Tennessee, in June 1993. A copy of the administrative procedures is on file in the office of the town manager. (as added by Ord. #93-10, § 4, July 1993)

TITLE 5

MUNICIPAL FINANCE AND TAXATION

CHAPTER

- 1. FISCAL YEAR, AUDITS.
- 2. REAL PROPERTY TAXES.
- 3. PRIVILEGE TAXES.
- 4. PURCHASING.
- 5. TOWN FEE SCHEDULES.
- 6. SIGNAL MOUNTAIN PUBLIC LIBRARY FUND.

CHAPTER 1

FISCAL YEAR, AUDITS

- 5-101. Fiscal year.
- 5-102. Audits and auditors.
- 5-101. <u>Fiscal year</u>. The fiscal year for the town shall be from the first day of July to the next following last day of June. (1985 Code, § 6-101)
- 5-102. <u>Audits and auditors</u>. The Town of Signal Mountain shall employ an auditor or auditing firm to conduct an annual audit each year as required by state law. The auditor shall be selected by the town manager, subject to the approval of the town council, from those firms or individuals who are recognized as qualified to conduct municipal audits by the State of Tennessee. (1985 Code, § 6-102, as replaced by Ord. #2004-1, March 2004)

REAL PROPERTY TAXES¹

- 5-201. When due and payable.
- 5-202. When delinquent--penalty and interest.
- 5-203. Rounding of property taxes, interest, and penalties.
- 5-204. Partial payments of property taxes.
- 5-201. When due and payable. Taxes levied by the town against real property shall become due and payable annually on the first business day of October of the year for which levied. (1985 Code, § 6-201)
- 5-202. When delinquent--penalty and interest. All real property taxes shall become delinquent on and after the first business 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. (1985 Code, § 6-202)
- 5-203. Rounding of property taxes, interests, and penalties. The town manager is hereby authorized to round individual ad valorem property tax amounts and delinquent interests and penalties to the nearest dollar. Such rounding shall be applied uniformly to all property tax bills in the town for real and personal property, whether such property is locally assessed or centrally assessed and shall be accomplished by rounding amounts ending in \$0.01 to \$0.49 down to the nearest dollar, and amounts ending in \$0.50 to \$0.99 up to the nearest dollar. Such rounding shall apply to both the tax amount and any interest and penalty added to delinquent taxes. (as added by Ord. #2007-3, Jan. 2007)
- 5-204. Partial payments of property taxes. (1) The town manager or his/her designee shall accept partial payments of annual property taxes. Notwithstanding the following schedule, the entire amount of taxes and fees due must be paid in full prior to the first day of March following the year of levy otherwise interest and penalties will be applied on balance on March 1.
- (2) No penalties, fines, interest or other fees shall be assessed against the payer of taxes or fees except as provided by the Town of Signal Mountain Municipal Code and/or the laws of the State of Tennessee.

¹See also, Article X, <u>"Taxation"</u>, of the charter for authority to collect delinquent taxes.

- (3) Prior to the final reading of the ordinance creating this section, the town manager shall transmit to the State Comptroller of the Treasury a copy of this ordinance which shall serve as the plan required by <u>Tennessee Code Annotated</u>, § 6-56-109(b). To fulfill this requirement, the town hereby declares that:
 - (a) The town has the appropriate accounting system technology to implement this program; and
 - (b) The town can implement this program with existing resources.
 - (4) The town's partial payment plan will be as follows:
 - (a) Current year property tax bills are mailed in October with a due date of October 1. Taxes may be paid in full or in partial payments without penalty and interest from the time they are due through February of the following year.
 - (b) Any partial payment made within ten (10) days of the delinquency date, or at any time following such delinquency date, may subject the property to a tax lien and enforcement by tax sale or other legally authorized procedures.
 - (c) Partial payments of property taxes are subject to the following:
 - (i) This plan shall NOT apply to the following:
 - (A) Properties that have applied for bankruptcy;
 - (B) Escrow accounts.
 - (ii) No more than one (1) partial payment shall be made in one (1) calendar month;
 - (iii) May not be made in installments of less than fifty dollars (\$50.00), except for final payment;
 - (iv) Cancelled check will serve as a receipt for taxpayers who mail in payments by check.
 - (v) Payments received March 1 or later following year of levy are subject to penalty and interest.
 - (vi) Payments made after the delinquency date or after the last day of February will be applied as outlined below in subsection (x).
 - (vii) Partial payments received on or after the first day of any month following the last day of February will decrease the penalty and interest for the following month only.
 - (viii) Partial payment may be made by cash (except for mail in payments), credit card (including online payments), debit card, check or money order.
 - (ix) Partial payments will be applied to the oldest year with delinquent amounts due that are not in bankruptcy or filed in chancery court.

- (x) Partial payments will be applied in the following order:
 - (A) Oldest year first for current owner:
 - (1) Interest.
 - (2) Fee.
 - (B) Property taxes:
 - (1) Oldest year first not filed in chancery court.
 - (a) Interest and penalty.
 - (b) Tax.
- (xi) Any partial payments must be remitted to: Signal Mountain Town Hall, 1111 Ridgeway Avenue, Signal Mountain, TN 37377. (as added by Ord. #2018-09, Aug 2018 *Ch19_8-26-19*)

PRIVILEGE TAXES

SECTION

5-301. Tax levied.

5-302. License required.

- 5-301. <u>Tax levied</u>. 1. 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 said state laws. The taxes provided for in the state's "Business Tax Act" (title 67, chapter 4, part 7, <u>Tennessee Code Annotated</u>) 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 said act.
- 2. The proceeds of the privilege taxes levied by the section shall be deposited to the general fund and apportioned to any funds within the town budget according to the discretion of the town council. (1985 Code, § 6-301)
- 5-302. <u>License required</u>. 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 such applicant's payment of the appropriate privilege tax. (1985 Code, § 6-302)

PURCHASING

- 5-401. Purchases of less than \$1,500.00.
- 5-402. Purchases of \$1,500.00 through \$4,999.99.
- 5-403. Purchases of \$5,000.00 through \$9,999.99.
- 5-404. Purchases of \$10,000.00 or greater.
- 5-405. Advertising or bidding--exceptions.
- 5-406. Purchase requisitions required; approval of form.
- 5-407. Signing, custody of contracts.
- 5-408. Approval of expenditures exceeding ten thousand dollars.
- 5-409. Submission, opening, acceptance of bids.
- 5-410. Contents of bid proposals.
- 5-411. Specifications attached to contracts.
- 5-412. Public improvement contracts.
- 5-413. Force account or cost-plus contracts for public improvements.
- 5-414. Contractor's bond.
- 5-401. <u>Purchases of less than \$1,500.00</u>. All purchases involving expenditures less than \$1,500.00 must be approved by the department head of the town department making the purchase. No type of quote or bid shall be required unless requested by the town manager. (1985 Code, § 1-201, as replaced by Ord. #91-9; Ord. #2000-7, June 2000; and Ord. #2005-3, Aug. 2005)
- 5-402. <u>Purchases of \$1,500.00 through \$4,999.99</u>. All purchases involving expenditures of \$1,500.00 through \$4,999.99 must be approved in advance by the town manager, or, in his absence, the mayor or the town recorder. No type of quote or bid process shall be required for such purchases unless requested by the town manager. (1985 Code, § 1-202, as replaced by Ord. #91-9; Ord. #2000-7, June 2000; and Ord. #2005-3, Aug. 2005)
- 5-403. Purchases of \$5,000.00 through \$9,999.99. All purchases involving expenditures of \$5,000.00 through \$9,999.99 must be approved in advance by the town manager, or, in his absence, the mayor or the town recorder. Three competitive bids or quotations either verbally or written may be obtained by the town manager, in his or her sole discretion, whenever possible or practicable for all purchases in excess of \$5,000.00. (1985 Code, § 1-203, as replaced by Ord. #91-9; Ord. #2000-7, June 2000; and Ord. #2005-3, Aug. 2005)
- 5-404. <u>Purchases of \$10,000.00 or greater</u>. All purchases involving expenditures of \$10,000.00 or greater shall only be approved by a majority vote

of the Town Council of the Town of Signal Mountain, Tennessee, after the town manager has obtained sealed bids by advertising in a newspaper of general circulation within Hamilton County, Tennessee, and after posting notices on the town bulletin board. In no event shall any requisition for purchase, voucher, or contract be split or divided into two (2) or more requests with the intent of evading the necessity for having competitive bids and/or the necessity of obtaining the approval of the town council. (1985 Code, § 1-204, as replaced by Ord. #91-9; Ord. #2000-7, June 2000; and Ord. #2005-3, Aug. 2005)

- 5-405. Advertising or bidding -- exceptions. Public advertisement and competitive bidding shall be required for the purchase of all goods and services exceeding an amount of ten thousand dollars (\$10,000.00) except for those purchases which are specifically exempted from advertisement and bidding by the Municipal Purchasing Law of 1983, which is codified at Tennessee Code Annotated, § 12-3-101, et seq., and including other general laws regulating municipal purchases. Contracts for professional services shall not be subject to competitive bidding pursuant to Tennessee Code Annotated, § 12-4-106. Certain insurance purchases shall not be subject to competitive bidding pursuant to Tennessee Code Annotated, § 29-20-407. (as added by Ord. #2000-7, June 2000, and replaced by Ord. #2005-3, Aug. 2005)
- 5-406. <u>Purchase requisitions required; approval of form</u>. All purchases made under the provisions of this article shall be made pursuant to a written requisition from the head of a department of the town. The town manager shall approve the form of any requisition. (as added by Ord. #2000-7, June 2000, and replaced by Ord. #2005-3, Aug. 2005)
- 5-407. <u>Signing, custody of contracts</u>. 1. Contracts for the purchase of supplies, materials and equipment shall be signed for and on behalf of the town by the town manager or mayor. Contracts for construction, services and all other contracts shall be signed for and on behalf of the town by the town manager or the mayor.
- 2. The original of all contracts shall be delivered to and kept by the town recorder. (as added by Ord. #2000-13, June 2000, and replaced by Ord. #2005-3, Aug. 2005)
- 5-408. Approval of expenditures exceeding ten thousand dollars. Whenever any requisition or voucher or contract calls for the expenditure of more than ten thousand dollars (\$10,000.00), the issuance of a purchase order or the payment of a voucher, or the award of a contract shall be subject to the approval of the town council, and shall not be binding on or create any liability against the town until approved by the town council. Such approval shall be by resolution or by motion adopted by majority vote of the town council; provided, however, that such approval shall not be necessary where a voucher or

requisition is issued pursuant to a prior lawful contract or pursuant to an ordinance authorizing such expenditure. (as added by Ord. #2005-3, Aug. 2005)

- 5-409. <u>Submission</u>, opening, acceptance of bids. 1. All bids shall be sealed and submitted to the official authorized herein to request bids on or before the specified time when such bidding is to be closed. The official receiving bids shall open them publicly on the date and at the hour specified. A purchase order may be issued, and/or a contract may be awarded, to the lowest responsible bidder submitting the best bid after approval by the town council. The town council may reject any and all bids submitted regardless of the amount involved. The term "lowest responsible bidder submitting the best bid" shall mean that in addition to price, consideration may be given to the following factors:
 - a. The ability, capacity and skill of the bidder to perform the contract or provide the service required;
 - b. Whether the bidder can perform the contract, or provide the service promptly or within the time specified, without delay or interference;
 - c. The character, integrity, reputation, judgment, experience and efficiency of the bidder;
 - d. The quality of performance of previous contracts or services;
 - e. The previous and existing compliance by the bidder with laws and ordinances relating to the contract or service;
 - f. The sufficiency of the financial resources and ability of the bidder to perform the contract or provide the service;
 - g. The quality, availability and adaptability of the supplies, material and equipment, or contractual services to the particular use required;
 - h. The ability of the bidder to provide future maintenance and service for the use of the subject of the contract, and the proposed warranty or guaranty;
 - i. The number and scope of conditions attached to the bid;
 - j. The approach of the bidders to issues raised in the solicitation for bids;
 - k. The peculiar capabilities of the bidders to perform the contract;
 - l. The proprietary features of the bid; and
 - m. The overall responsiveness of the bid to the needs of the town. (as added by Ord. #2005-3, Aug. 2005)
- 5-410. <u>Contents of bid proposals</u>. All bid proposals for contracts to furnish supplies, materials or equipment, or to do construction work, shall set forth with particularity the nature of the work to be performed, how it shall be done, the type and quality of the material to be used and any other details

necessary for the guidance of the contractor and the protection of the town. (as added by Ord. #2005-3, Aug. 2005)

- 5-411. Specifications attached to contracts. The town manager may have the town engineer or other competent town officer or employee, or private consultant, draw specifications in detail which shall be attached to the contract and construed to be a part thereof. Such specifications shall be made in duplicate, one (1) copy to be furnished to the contractor and the other retained by the town recorder the office as a part of the records of the town. (as added by Ord. #2005-3, Aug. 2005)
- 5-412. Public improvement contracts. All contracts of the town for any public improvement, when the cost shall exceed ten thousand dollars (\$10,000.00) shall be let to the lowest responsible bidder, the town council to be the judge thereof, and the town council shall have the right to reject any and all bids. All contracts of the town shall be in writing, and may be signed on behalf of the town by the mayor or town manager. All contracts shall be subject to the approval of the town council. Notice to bidders shall be given by publication in a daily newspaper published in Hamilton County, Tennessee, giving the date, hour and place bids will be received and publicly opened, which publication notice shall be at least ten (10) days before the bids are to be received. (as added by Ord. #2005-3, Aug. 2005)
- 5-413. Force account or cost-plus contracts for public improvements. After bids have been advertised and received for making any public improvement, the mayor or town manager may negotiate with the lowest responsible bidder to have such bidder make such public improvement by force account or on a cost-plus basis if, in the opinion of the mayor or the town manager, the making of such agreement is advantageous to the town. Contracts for repair of buildings or structures may be let on a cost-plus basis which shall include the cost of labor, material, insurance or other legitimate expenses of the contractor and a fixed fee or percentage for profit with a maximum cost to the town of such contract. All such agreements shall be in writing and approved by the town council. (as added by Ord. #2005-3, Aug. 2005)
- 5-414. Contractor's bond. No contract shall be let for any public work until the contractor shall have first executed a good and solvent bond to the effect that he will pay for all the labor and materials used by such contractor, or any immediate or remote subcontractor under him, in such contract, in lawful money of the United States. The bond to be so given shall be for one hundred (100) percent of the contract price. Where advertisement is made, the condition of the bond shall be stated in the advertisement; provided, that this section shall not apply to contracts under ten thousand dollars (\$10,000.00). (as added by Ord. #2005-3, Aug. 2005)

TOWN FEE SCHEDULES

SECTION

- 5-501. Gym rental fees.
- 5-502. Non-resident fees for use of town facilities.
- 5-503. Swimming pool fees.
- 5-504. Additional fees for town recreation facilities.
- 5-505. Mountain Arts Community Center rental and associated fees.
- 5-506. Proration of fees.
- 5-507. General code fees provisions.
- 5-508. Building and construction permit fees.
- 5-509. Plumbing permit fees.
- 5-510. Mechanical permit fees.
- 5-511. Gas permit fees.
- 5-512. Electrical permit fees.
- 5-513. Swimming pool construction permit fees.
- 5-514. Land disturbance permit fees.
- 5-515. Other code related fees.
- 5-516. Chicken permit fee.

5-501. Gym rental fees. The fees for using the town gymnasium shall be paid by residents and non-residents in accordance with the schedule below:

Town resident rate:

Town functions, community organizations, and recreation leagues	No charge
Non-profit with no admission fee	\$ 23.00 per hour
Non-profit with admission fee (or 10% of gross revenue - whichever is greater)	\$ 45.00 per hour
For profit with no admission fee	\$ $45.00~{ m per}~{ m hour}$
For profit with admission fee (or 20% of gross revenue - whichever is greater)	\$ 48.00 per hour
Individuals for private birthday parties, etc.	\$ 23.00 per hour

Non-resident rate:

An annual fee of twelve dollars (\$12.00) will be added for non-resident usage of the town gymnasium in addition to the above-listed hourly rates. (as added by Ord. #2007-1, Jan. 2007, and replaced by Ord. #2008-3, March 2008, and Ord. #2011-1, March 2011)

5-502. <u>Non-resident fees for use of town facilities</u>. The town shall issue non-resident cards on a calendar basis to families that do not live within the town but desire to use the town's facilities. The costs for non-resident cards for various facilities paid for by town taxpayers shall be as follows:

<u>Facility</u>	<u>A</u>	annual fee
Swimming pool	\$ \$	100.00 for a family and 50.00 for an individual, plus swimming pool rates as specified in § 5-503.
Ball fields	\$	35.00
Gymnasium	\$	12.00 plus hourly rates as specified in § 5-501.
MACC	\$	30.00
Library	\$	70.00
Recycle center		(provided at no cost as a benefit for the community)
Transfer station	\$	200.00
TOTAL	\$	447.00

(as added by Ord. #2007-1, Jan. 2007, and replaced by Ord. #2008-3, March 2008, and Ord. #2011-1, March 2011)

5-503. Swimming pool fees. The fees for residents and non-residents using the Town swimming pool shall be paid in accordance with the schedule below:

Daily pass rates (non-residents must have additional card - see § 5-502)

Persons 6 years of age and older	\$ 7.00
Senior Rate (65 years of age and older)	\$ 5.00
Child under 6 years of age	\$ 5.00

	Season pass rates	(non-residents must)	<u>have additional ca</u>	<u>rd - see {</u>	§ -502)
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Family	\$ 200.00
Adult	\$ 110.00
12 and under	\$ 100.00
Additional fees for swimming pool	
Swimming pool non-resident weekly pass	\$ 20.00 for 1 week
Swimming instructions at town pool (resident/non-resident)	\$ 80.00 for 2 weeks
Pool parties (residents/non-residents)	\$ 90.00 per hour

(as added by Ord. #2008-3, March 2008, and replaced by Ord. #2011-1, March 2011, and Ord. #2017-03, May 2017)

5-504. <u>Additional fees for town recreation facilities</u>. The fees for using town recreation facilities shall be paid by residents and non-residents in accordance with the schedule below:

Tennis court reservations (other than Hamilton County Schools)	\$	3.00 per court per hour
Pavilion rental	\$	10.00 the first hour and
	\$	5.00 per hour thereafter
Town functions, community organizations, and recreate charge	tion	leaguesno
Summer day camp fees (residents)	\$	60.00 per week
Summer day camp fees (non-residents)	\$	$75.00~{ m per~week}$
Swimming instructions at town pool (resident/non-resident)	\$	80.00 for 2 weeks
Pool parties (residents/non-residents)	\$	90.00 per hour

All resident/non-resident swim team members shall pay six dollars (\$6.00) per team member for swimming pool maintenance.

All resident/non-resident baseball, football, soccer, and softball team members shall pay six dollars (\$6.00) per team member for ball field maintenance. (as added by Ord. #2008-3, March 2008, and replaced by Ord. #2011-1, March 2011)

5-505. <u>Mountain Arts Community Center Rental and associated fees</u>. The rental and associated fees for use of facilities within the Mountain Arts Community Center shall be paid by residents and non-residents in accordance with the schedule below:

Town resident rate:

Town functions	No charge
Classroom rental	\$ 25.00 per hour
Auditorium rental	\$ 125.00 per hour
Cafeteria rental	\$ 125.00 per hour
Kitchen rental	\$ 50.00 per hour

In lieu of an hourly fee, the MACC director may negotiate a "percentage of gate" agreement for events held in the auditorium. Said agreements must be in writing and signed prior to the event.

Non-profits with documented 501(c)(3) status or other community-based non-profit organizations will receive a ten percent (10%) discount. At the town's discretion, in-kind gifts may be accepted from these organizations in lieu of rental fees.

Additional fees:

Sound technician	(two hour minimum)	\$ 30.00 per hour/each
Lighting technician	(two hour minimum)	\$ 30.00 per hour/each
After hours staff	(two hour minimum)	\$ 12.00 per hour/each

Non-resident rate:

Non-residents will pay fees in accordance with the above schedule but must also pay an annual non-resident fee as indicated in § 5-502 of this chapter. (as added by Ord. #2012-5, March 2012)

5-506. <u>Proration of fees</u>. The annual fees, including non-resident fees, for the transfer station and the pool may be prorated by half, depending on the time left in the year or season respectively. The MACC may also prorate the non-resident fee by half for purposes of class enrollment. The town manager has the authority to prorate other fees as deemed appropriate by the town council. (as added by Ord. #2013-19, Nov. 2013)

5-507. <u>General code fees provisions</u>. (1) <u>TAP fee</u>. The following shall be in addition to all town code related fees:

There will be included a TAP fee on each permit application in the amount of fifty dollars (\$50.00) which includes the following three (3) fees:

- (a) Technology fee of ten dollars (\$10.00);
- (b) Administration fee of five dollars (\$5.00); and
- (c) Permit base fee of thirty-five dollars (\$35.00).

This will replace the base fee on all permits.

- (2) <u>Refunds</u>. All town code related fees shall be nonrefundable unless, in the determination of the building official, the process of the project has not completed a sufficient review to justify the entire fees for consideration. Due to the withdrawal of an application prior to review, any proportional refund shall be in the sole discretion of the building official.
- (3) <u>Fee for re-inspections</u>. (Building, plumbing, gas, mechanical, electrical and signs): twenty-five dollars (\$25.00).
- (4) <u>Penalties</u>. Where work for which a permit is required by this code is started or proceeded with prior to obtaining said permit, the fees herein specified may be doubled, but the payment of such double fee shall not relieve any persons from fully complying with the requirements of the current code in the execution of the work nor from any other penalties prescribed herein. (as added by Ord. #2020-09, Sept. 2020 *Ch20_06-28-21*)
- 5-508. <u>Building and construction permit fees</u>. The fees for all building and construction work shall be as indicated in the following schedule:
 - (1) General building fees.

Site permit only (exclude TAP fee) (non-permanent assessory structure)	\$20.00
TAP fee	\$50.00
Total valuation fee	
\$100.00 to \$1,000.00	\$15.00
\$1,001.00 up	\$15.00 for first \$1,000.00 plus \$5.00 for each additional \$1,000.00 or fraction thereof

- (2) <u>Moving fee</u>. For the moving of any building or structure, the fee shall be one hundred dollars (\$100.00).
- (3) <u>Demolition fees</u>. For the demolition of any building or structure, the fee shall be:

One and two family dwellings	\$100.00
Commercial, multi-family	\$200.00
(4) Other fees.	
Fee for fire and life safety inspection and plans review.	(20% of building permit fee)
Plan review fee.	(30% of building permit fee)
Certificates of occupancy (residential) (new construction).	\$50.00
Certificates of completion (existing structures).	\$10.00
Use and occupancy certificate (commercial).	\$100.00
Fee for zoning letter.	\$25.00
Fee for cell tower hook on.	\$1,000.00
Fee for submission to design review commission committee.	\$75.00
Fee for variance or appeal request to board of zoning appeal.	\$75.00
Fee for all other appeals. (as added by Ord. #2020-09, Sept. 2020 <i>Ch20_06-2</i>	\$75.00 (8-21)

 $5\text{-}509.~\underline{Plumbing~permit~fees}.$ The fees for all plumbing work shall be as indicated in the following schedule:

(1)	TAP	<u>fee</u> .	\$50.00
(2)	Plum	bing fee schedule.	
	(a)	Plumbing fixture or stand alone floor drain.	\$4.00/ea
	(b)	Building sewer.	\$3.00/ea
	(c)	Water heater.	\$3.00/ea
	(d)	Water piping and/or water treating equipment.	\$3.00/ea

Repair or alteration of \$3.00/ea (e) drainage or vent piping. (f) Vacuum breaking, pressure \$3.00/ea reducing or backflow protective devices or \$3.00/ea check valve assembly.

(g) Grease or oil interceptor. \$3.00/ea

(h) Other miscellaneous items. \$3.00/ea (as added by Ord. #2020-09, Sept. 2020 *Ch20_06-28-21*)

5-510. Mechanical permit fees. The fees for all mechanical work shall be as indicated in the following schedule:

TAP fee. (1) \$50.00

Mechanical fee schedule. (2)

Total valuation fee

\$10.00 to \$1,000.00 \$10.00 for the first

\$1,000.00, or fraction

thereof

\$10.00 for the first \$1,001.00 up

\$1,000.00, plus \$4.00 for

each additional \$1,000.00 or fraction

thereof

(3)Fee for inspecting boilers. \$35.00 (as added by Ord. #2020-09, Sept. 2020 *Ch20_06-28-21*)

5-511. Gas permit fees. The fees for all gas work shall be as indicated in the following schedule:

TAP fee. \$50.00 (1)

(2) Gas fee schedule.

> 100,000 BTU to 500,000 BTU per \$6.00 hour, each object.

500,000 to less than 1,000,000 BTU per hour each object.	\$8.00
1,000,000 to less than 5,000,000 BTU per hour each object.	\$10.00
Over 5,000,000 BTU per hour each object.	\$20.00

(as added by Ord. #2020-09, Sept. 2020 *Ch20_06-28-21*)

5-512. Electrical permit fees. The fees for all electrical work shall be as indicated in the following schedule:

(1)	<u>TAP fee</u> .		\$50.00
(2)	Electrical fee schedule.		
	(a)	600 volts or less.	\$20.00
	(b)	Over 600 volts.	\$100.00
	(c)	Each 100 amps.	\$4.00
	(d)	Temporary service on structure.	\$20.00
	(e)	Temporary service on pole.	\$20.00
	(f)	Meter center.	\$20.00
(as added by	(g) y Ord. :	Generator. #2020-09, Sept. 2020 <i>Ch20_06-28-21</i>)	\$10.00

5-513. Swimming pool construction permit fees. Fees for all swimming pools will be assessed at the same rate as the building and construction fee schedule in § 5-508.

(1)	TAP fee.	\$50.00
(2)	<u>Total valuation fee</u> .	
	\$100.00 to \$1,000.00	\$15.00
	\$1,001.00 up	\$15.00 for first \$1,000.00 plus \$5.00 for each additional thousand or fraction thereof.

(as added by Ord. #2020-09, Sept. 2020 Ch20_06-28-21)

5-514. <u>Land disturbance permit fees</u>. Fees for land disturbance permits are based on the size of the parcel:

(1) <u>TAP fee</u>. \$50.00

(2) <u>Fee schedule</u>.

0 to 2.0 acres \$25.00

2.1 acres to 4.9 acres \$50.00

5.0 acres and greater \$100.00

(as added by Ord. #2020-09, Sept. 2020 Ch20_06-28-21)

5-515. Other code related fees. (RESERVED) (as added by Ord. #2020-09, Sept. 2020 $Ch20_06-28-21$)

5-516. Chicken permit fee. Fee schedule. Prior to purchasing any chickens pursuant to § 10-102 within the town, any person must obtain a permit from the building official and an inspection shall be conducted of any proposed facilities for housing chickens. There shall be a permit fee of thirty-five dollars (\$35.00) to keep chickens within the town. (as added by Ord. #2020-09, Sept. 2020 *Ch20_06-28-21*)

SIGNAL MOUNTAIN PUBLIC LIBRARY FUND

- 5-601. Signal Mountain Public Library Fund established.
- 5-602. Purchasing requirements.
- 5-603. Duties of finance director.
- 5-604. Audit and reporting required.
- 5-601. <u>Signal Mountain Public Library Fund established</u>. (1) There is hereby created and established a fund known as the "Signal Mountain Public Library Fund" to be maintained by the town finance director as a special fund which shall be kept separate and apart from all other funds. This fund shall account for all financial transactions of the Signal Mountain Public Library, regardless of funding source.
- (2) Charitable contributions, any funds from other governmental entities, private grant funds, revenue generated through library operations and tax funds, whether raised by bonds, taxation, governmental grants, or otherwise shall be deposited to such special fund for the use and benefit of the Signal Mountain Public Library. (as added by Ord. #2017-09, Oct. 2017)
- 5-602. <u>Purchasing requirements</u>. Expenditure of such funds shall be in accordance with the Town of Signal Mountain Purchasing Ordinance, library board policies and applicable Tennessee laws and regulations. No funds shall be expended or disbursed unless such funds are duly appropriated in the Library's approved operational and/or capital budgets. (as added by Ord. #2017-09, Oct. 2017)
- 5-603. <u>Duties of finance director</u>. (1) The finance director shall oversee the Signal Mountain Public Library Fund in the same manner as all other municipal funds and accounts. All funds shall be reported in accordance with generally accepted accounting principles and any terms and conditions established by funding sources.
- (2) The finance director is authorized to direct the investment of such funds in the same manner as surplus funds of the town are now being invested.
- (3) Finance reports, budget documents and other records will be provided to the library administration, in the same manner as other town departments. (as added by Ord. #2017-09, Oct. 2017)
- 5-604. <u>Audit and reporting required</u>. (1) The Signal Mountain Public Library Fund and all library accounts of every character shall be audited annually as part of the town's annual audit.

(2) In coordination with and as a supplement to the annual audit(s), the library board shall furnish to the town council each fiscal year, an annual report setting forth the detailed activities and statistics associated with the operation of the library during that period. (as added by Ord. #2017-09, Oct. 2017)

TITLE 6

LAW ENFORCEMENT¹

CHAPTER

1. POLICE DEPARTMENT.

CHAPTER 1

POLICE DEPARTMENT

SECTION

- 6-101. Policemen subject to chief's orders.
- 6-102. Policemen to preserve law and order, etc.
- 6-103. Police department records.
- 6-104. Special event police services and fees.
- 6-101. <u>Policemen subject to chief's orders</u>. All policemen shall obey and comply with such orders and administrative rules and regulations as the police chief may officially issue.
- 6-102. <u>Policemen to preserve law and order, etc.</u> Policemen shall preserve law and order within the city. They shall patrol the city and shall assist the city court during the trial of cases. Policemen shall also promptly serve any legal process issued by the city court.
- 6-103. <u>Police department records</u>. 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.
- (3) All police investigations made, funerals, convoyed, fire calls answered, and other miscellaneous activities of the police department.
- (4) Any other records required to be kept by the town council or by law. The police chief shall be responsible for insuring that the police department complies with the section.

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

¹Municipal code reference

- 6-104. Special event police services and fees. The town manager may provide police services, as manpower availability permits, for events that are community oriented and widely attended by town residents or participated in by a large body of town residents.
- (1) Persons, groups or organizations in need of dedicated police services for other functions or events must contract with the Town of Signal Mountain for the assignment of police officers. Officers working such special assignments will do so in an overtime capacity and will be considered to be on duty and in the active employ of the Town of Signal Mountain during such assignment.
- (2) Any person who desires a special event permit must submit a completed request form to the Signal Mountain Town Manager at least thirty (30) days prior to the event. The town manager shall approve the nature of the event and forward any request for special police services to the chief of police to determine manpower availability and for approval. Upon approval of the request by the town manager and the chief of police, any person desiring to hold an event will be advised and fees for special event police services shall be paid to the town at least seven (7) days prior to the scheduled event date.
- (3) An hourly fee for special event police services shall be established by the town manager each year on or before July 1, and such hourly fee rate shall remain in effect for the remainder of that fiscal year. The hourly fee shall be established by calculating the average hourly overtime rate of all police officers at or below the rank of lieutenant (rounded to the nearest dollar).
- (4) The minimum fee for special event police services shall equal three (3) hours per officer assigned to the event at the current hourly rate approved by the town manager. A vehicle usage fee of ten dollars (\$10.00) per officer assigned to the event will also be assessed before a special event permit shall be issued. (as added by Ord. #2009-4, March 2009)

TITLE 7

FIRE PROTECTION AND FIREWORKS

CHAPTER

- 1. FIRE CODE.
- 2. OPEN BURNING.
- 3. LIFE SAFETY CODE.

CHAPTER 1

FIRE CODE

- 7-101. Fire code adopted--International Fire Code, 2018 edition.
- 7-102. Appendices to code adopted.
- 7-103. Amendments to code adopted.
- 7-104. Committee to determine new materials and processes.
- 7-105. Violations.
- 7-106. Handling of explosives.
- 7-107. Restricted use of fireworks.
- 7-108. Enforcement.
- 7-109. Appeals from the application of the fire code.
- 7-101. Fire code adopted--International Fire Code, 2018 edition. The International Fire Code, 2018 edition, and all referenced publications therein at chapter 80, as amended, (published by the International Fire Code Council), including the 2012 National Fire Protection Association (NFPA) 101 Life Safety Code in its entirety for any state building, educational occupancies, and any other occupancy requiring an inspection by the state fire marshal, one (1) copy of which is and has been on file in the office of the town recorder for more than fifteen (15) days, is hereby adopted as the official Fire Code of the Town of Signal Mountain. (Ord. # 88-8, May 1988, as replaced by Ord. #2005-12, Oct. 2005, Ord. #2010-25, Nov. 2010, and Ord. #2020-10, Sept. 2020 Ch20_06-28-21)
- 7-102. <u>Appendices to code adopted</u>. The following appendices to the <u>International Fire Code</u>, 2018 edition, are hereby adopted as part of the official fire codes of the town:
 - Appendix B Fire Flow Requirements for Buildings
 - Appendix C Fire Hydrant Locations and Distribution
 - Appendix D Fire Apparatus, as amended
 - Appendix E Hazard Categories Appendix
 - Appendix G Cryogenic Fluids--Weight and Volume Equivalents

Appendix H - Hazardous Materials Management Plan (HMMP) and Hazardous Materials Inventory Statement (HMIS) Instructions Appendix I - Fire Protection Systems--Noncompliant Conditions Appendix K - Construction Requirements for Existing Ambulatory Care Facilities

(1985 Code, § 7-102, as replaced by Ord. #2005-12, Oct. 2005, Ord. #2010-25, Nov. 2010, and Ord. #2020-10, Sept. 2020 *Ch20_06-28-21*)

- 7-103. <u>Amendments to code adopted</u>. The following sections and chapters of the <u>International Fire Code</u>, 2018 edition, are hereby amended as hereunder provided:
- (1) Any appeal of the decision of the fire marshal concerning application of the provisions of the <u>International Fire Code</u> shall be heard by the construction board of adjustment and appeals pursuant to § 12-1225 of the Signal Mountain Town Code.
- (2) The fire code adopted in § 7-101 is hereby modified by requiring automatic sprinkler systems in future commercial, industrial occupancies having a gross floor area of five thousand (5,000) square feet or greater and requiring an automatic sprinkler system in Hazards Production Material (HPM) facilities as defined by the adopted building code. All automatic sprinkler systems shall be designed by a licensed engineer or architect and shall conform to NFPA 13 requirements and to the building code sprinkler requirements. The sprinkler requirements shall be made a part of the plans and specifications submitted for approval and shall be installed by a State of Tennessee licensed automatic sprinkler system contractor.
- (3) The Town of Signal Mountain will not require sprinklers in one (1) and two (2) family residences. Sprinklers will be required in three (3) unit townhouses with five thousand (5,000) gross square feet or more and townhouses built with four (4) or more units regardless of square footage.
- (4) Appendix D, sections D106 and D107 are deleted in their entirety and the following new section D106 is substituted in lieu thereof:
 - D106 Developments requiring more than one access road. All residential or multiple-family residential developments shall be provided with at least two (2) separate and approved fire access roads whenever any development project has more than two hundred (200) dwelling units, regardless of whether the dwelling units are equipped with an approved automatic sprinkler system. (1985 Code, § 7-103, as replaced by Ord. #2005-12, Oct. 2005, Ord. #2010-25, Nov. 2010, and Ord. #2020-10, Sept. 2020 *Ch20_06-28-21*)
- 7-104. <u>Committee to determine new materials and processes</u>. The mayor, the fire and police commissioner, and the chief of the fire department shall act as a committee to determine and specify, after giving affected persons an opportunity to be heard, any new materials, processes or occupancies which

shall require permits in addition to those now enumerated in the fire prevention code adopted in this chapter. (1985 Code, § 7-104)

- 7-105. <u>Violations</u>. (1) Any person who shall violate any of the provisions of the fire prevention code adopted in this chapter or who shall fail to comply therewith, or who shall violate or fail to comply with any order made thereunder, or who shall build in violation of any detailed statement or specifications or plans submitted and approved thereunder or any certificate or permit issued thereunder and from which no appeal has been taken, or who shall fail to comply with such an order as affirmed or modified by the town council or by a court of competent jurisdiction within the time therefor, shall severally for each and every such violation and noncompliance respectively be guilty of an offense punishable according to the general penalty provisions of this code of ordinances. The imposition of one penalty for any violation shall not excuse the violation or permit it to continue and all such persons shall be required to correct or remedy the violation or defects within a reasonable time and, when not otherwise specified, each ten (10) days that prohibitive conditions are maintained shall constitute a separate offense.
- (2) The application of the penalty prescribed by subsection (1) above shall not be held to prevent the enforced removal of prohibited conditions. (1985 Code, § 7-105)
- 7-106. <u>Handling of explosives</u>. (1) The fire chief shall require any person handling and using explosives to have an explosive certificate and furnish the town a copy of an adequate liability insurance policy in the amount of five hundred thousand dollars (\$500,000.00) for bodily injury and two hundred fifty thousand dollars (\$250,000.00) for property damage.
- (2) All of the provisions of Section 1902.5 of the Standard Fire Prevention Code of 1985 concerning use and handling of explosives must be complied with. The town building inspector shall require evidence of such liability policy in compliance with provision of section 1902.5 prior to permitting any blasting on building sites. Further the town administrator shall require evidence of such approval prior to any blasting by developers, contractors or other persons within streets and other public right-of-ways. (Ord. # 86-7, Dec. 1986, modified)
- 7-107. Restricted use of fireworks. It shall be unlawful for any person to possess, store, offer for sale, sell at retail, or use, or explode any fireworks, except that the public safety director, or his/her designee may permit the use of fireworks for public or private displays when all of the provisions of NFiPA 1123 are met and after all necessary permits have been issued. Every such use or display shall be handled by a competent operator approved by the public safety director or his/her designee and shall be of such character and so located,

discharged or fired so as not to be hazardous to property or endanger any person. (as added by Ord. #95-11, § 1, Nov. 1995)

- 7-108. <u>Enforcement</u>. The fire code of the town adopted in § 7-101 above shall be enforced by the chief of the fire department or other designee of the town manager. (as renumbered by Ord. #2005-12, Oct. 2005, and replaced by Ord. #2010-25, Nov. 2010)
- 7-109. Appeals from the application of the fire code. Whenever the fire chief or other designated fire inspector shall disapprove an application or refuse to grant a permit applied for or when it is claimed that the provisions of the fire code adopted in this chapter do not apply or that the true intent and meaning of the fire code has been misconstrued or wrongly interpreted, the applicant may appeal from the decision of the fire chief or other designated fire inspector to the town council within thirty (30) days from the date of the decision appealed. (as renumbered by Ord. #2005-12, Oct. 2005, and replaced by Ord. #2010-25, Nov. 2010)

OPEN BURNING¹

- 7-201. Declaration of policy.
- 7-202. Definitions.
- 7-203. Prohibition on open burning.
- 7-204. Salvage burning.
- 7-205. Leaf burning.
- 7-206. Exceptions to prohibition on open burning.
- 7-207. Violations and penalty.
- 7-201. <u>Declaration of policy</u>. It is hereby declared to be the public policy of this town and the purpose of this chapter to achieve and maintain such levels of air quality as will protect human health and safety and to the greatest degree practicable, prevent injury to plant and animal life and property, and foster the comfort and convenience of the people. (1985 Code, § 7-201, as replaced by Ord. #95-12, § 1, Nov. 1995)
- 7-202. <u>Definitions</u>. "Bureau:" The Chattanooga-Hamilton County Air Pollution Control Bureau.
- "Controlled burning:" Open burning conducted in such manner or with the aid of such special equipment that emissions are reduced.
- "Director:" The director of the bureau.
- "Open burning:" Unconfined burning of combustible material where no equipment has been provided and used for control of air.
- "Person:" Any individual, partnership, copartnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity or any other legal entity, or their legal representatives, agents or assigns. The masculine gender shall include the feminine, the singular shall include the plural where indicated by the context.
- "Salvage operation:" Any operation conducted in whole or in part for the salvage or reclaiming of any product or material. (1985 Code, § 7-202, as replaced by Ord. #95-12, § 1, Nov. 1995)
- 7-203. <u>Prohibition on open burning</u>. No person shall cause, suffer, allow or permit open burning except as provided hereinafter. No person shall fail or refuse to take all reasonable and necessary steps and precautions to prevent open burning upon any premises owned, occupied or under the control of such

¹See section 11-903 for a provision prohibiting the starting of fires endangering woodlands within the town.

person. No person shall fail or refuse to take all reasonable and necessary steps and precautions to extinguish or other wise terminate and abate any open burning which has originated through any cause whatsoever upon any premises owned, occupied or under the control of such person or upon premises upon which such person is carrying out any operation or activity. (1985 Code, § 7-203, as replaced by Ord. #95-12, § 1, Nov. 1995)

- 7-204. <u>Salvage burning</u>. No person shall conduct a salvage operation by open burning. (1985 Code, § 7-204, as replaced by Ord. #95-12, § 1, Nov. 1995)
- 7-205. <u>Leaf burning</u>. No person shall burn leaves. (as added by Ord. #95-12, § 1, Nov. 1995)
- 7-206. Exceptions to prohibition on open burning. (1) Open burning of vegetation and wood materials may be permitted by the director provided the following conditions are met:
 - (a) An application shall be submitted to the director giving the reasons why no other method of disposal can be employed, amount of material to be burned and location of material to be burned.
 - (b) No burning shall occur until such inspection of the material as may be required by the bureau is conducted.
 - (c) Burning shall be conducted only on days of low pollution potential, as determined by the bureau, and only between the hours of 9:00 a.m. and 4:00 p.m. on such days.
 - (d) Only clean fuel not containing garbage, rubber, plastics, roofing materials, tar paper or other refuse shall be allowed for the startup of fires.
 - (e) Written approval is received from the director.
- (2) Controlled burning of vegetation and wood materials may be permitted by the director provided the following conditions are met:
 - (a) A signed application shall be submitted to the director including the following:
 - (i) Complete plans and details of the method and equipment to be used for the control of such burning;
 - (ii) Name of the person in charge of the equipment and how he may be contacted.
 - (b) An annual fee of two hundred dollars (\$200.00) shall be included with the application, which fee shall be collected by the bureau and remitted to the town manager. Controlled burning permits are renewable annually. Application for renewal of a controlled burning permit shall be made in writing not less than sixty (60) days prior to the expiration of the permit for which renewal is sought.
 - (c) Written approval is received from the director.

- (3) Open burning shall be allowed without compliance with the above only in the following specifically listed instances:
 - (a) Fires used for cooking of food or for ceremonial or recreational purposes, including barbecues and outdoor fireplaces, but only if such fires are fueled for that particular purpose.
 - (b) Fires set by or at the direction of responsible fire control agencies for the prevention, elimination or reduction of the spread of existing fires.
 - (c) Safety flares and smokeless flares, except those for the combustion of waste gases. Flares for the combustion of waste gases shall comply with all safety requirements.
 - (d) Open burning used solely for the purpose of warming persons who are in the out-of-doors performing work and conducting lawful activities, provided such fires use only clean fuel not containing garbage, rubber, plastics, roofing materials, tar paper or other refuse.
- (4) Open burning may be permitted in the following instances, provided a written statement, such as is required above is filed with the director and written approval is given by the director.
 - (a) Fires set for the training and instruction of public or private fire fighting personnel, including those in civil defense.
 - (b) Other open burning where there is no other practical, safe and lawful method of disposal. (as added by Ord. #95-12, § 1, Nov. 1995)
- 7-207. <u>Violations and penalty</u>. The violation of any provision of this chapter shall be punished in accordance with the general penalty provision of this code of ordinances. Each violation continuing beyond three (3) hours shall constitute a separate offense. (as added by Ord. #95-12, § 1, Nov. 1995)

LIFE SAFETY CODE

SECTION

7-301. Life safety code adopted.

7-302. Fees.

7-303. Violations and penalties.

7-301. <u>Life safety code adopted</u>. There is hereby adopted by the town council for the purpose of prescribing regulations governing conditions hazardous to life and property by regulating certain hazardous conditions by a certain code known as the <u>Life Safety Code</u>, <u>1985 Edition</u>. All of the requirements of this code shall apply within the corporate limits and it shall be known as the "<u>Life Safety Code</u>, <u>1985 Edition</u>" and all future yearly additions as prepared and adopted by the National Fire Protection Association, Incorporated which is hereby incorporated by reference and made a part of the chapter as if fully set forth herein.

One (1) copy of the Life Safety Code shall be kept on file in the town hall for the use and inspection of the public. (Ord. # 88-3, May 1988)

7-302. <u>Fees</u>. The fee schedule shall be set by the town council from time to time and shall be available in public form at the town hall and shall be set so as to cover the costs of the Life Safety Code operation. (Ord. # 88-3, May 1988)

7-303. <u>Violations and penalties</u>. Any person who shall violate or fail to comply with any of the provisions of the Life Safety Code shall be guilty of a misdemeanor and upon conviction thereon shall be fined under the General Penalty Clause for this code of ordinances or the license of such person may be revoked or both fine and revocation of license may be imposed. (Ord. # 88-3, May 1988)

TITLE 8

ALCOHOLIC BEVERAGES¹

CHAPTER

- 1. INTOXICATING LIQUORS.
- 2. BEER.
- 3. SPECIAL BEER PERMITS.

CHAPTER 1

INTOXICATING LIQUORS

- 8-101. Scope of chapter.
- 8-102. Definitions adopted.
- 8-103. Compliance with state law and this chapter required.
- 8-104. Certificate of moral character.
- 8-105. Municipal inspection fee.
- 8-106. Location of any liquor store and/or establishment selling alcoholic beverages with more than eight percent (8%) alcohol content.
- 8-107. Maximum number of wholesale and retail licenses.
- 8-108. Brown bagging and corkage, generally.
- 8-109. Definitions.
- 8-110. Beer board and town police to enforce chapter.
- 8-111. Hours of sale restricted.
- 8-112. Sales to incapacitated or incompetent persons prohibited.
- 8-113. Employment of minors.
- 8-114. Public nuisance.
- 8-115. Telephone and reports of disorders.
- 8-116.--8-127. Reserved.
- 8-128. Permit; required.
- 8-129. Application; fee.
- 8-130. Location to be designated.
- 8-131. Grounds for refusal.
- 8-132. When town council may issue.
- 8-133. To be posted.
- 8-134. Not transferable.

¹For provisions prohibiting possession of alcoholic beverages on town property see § 11-201 in this code.

For general provisions in the state law, see <u>Tennessee Code Annotated</u>, title 57, particularly chapter 3.

- 8-135. Grounds for revocation or suspension.
- 8-136. Authority of the town to levy and collect privilege taxes from all individuals engaged in the business of selling alcoholic beverages for consumption on the premises.
- 8-101. <u>Scope of chapter</u>. The provisions of this chapter shall apply to all alcoholic beverages as defined by <u>Tennessee Code Annotated</u>, § 57-3-101. (1985 Code, § 2-101, as replaced by Ord. #2019-15, Oct. 2019 *Ch20_06-28-21*)
- 8-102. <u>Definitions adopted</u>. All of the definitions and provisions of <u>Tennessee Code Annotated</u>, § 57-3-101 are adopted for the interpretation of this chapter and are made applicable to the sale and regulation of alcoholic beverages within the town. (1985 Code, § 2-102, as replaced by Ord. #2019-15, Oct. 2019 *Ch20_06-28-21*)
- 8-103. <u>Compliance with state law and this chapter required</u>. It shall be unlawful to manufacture, store, transport, sell, possess, distribute or receive alcoholic beverages in this town except in compliance with the provisions of the state law and this chapter. (1985 Code, § 2-103, as replaced by Ord. #2019-15, Oct. 2019 *Ch20_06-28-21*)
- 8-104. <u>Certificate of moral character</u>. A certificate of moral character, as required by <u>Tennessee Code Annotated</u>, § 57-3-208 as a prerequisite to the issuance of a state alcoholic beverage license, shall not be signed by the mayor or any member of the town council before the following conditions are met.
- (1) An application for a certificate of moral character shall be filed in writing with the town council on a form provided by the town, giving the following information:
 - (a) The name, age and address of the applicant.
 - (b) The number of years' residence in the town.
 - (c) The applicant's occupation or business and the length of time engaged in that occupation or business.
 - (d) Whether or not the applicant has been convicted of a violation of any state or federal law or of the violation of any municipal ordinance within the past ten (10) years.
 - (e) If the applicant is employed, the name and address of his employer.
 - (f) If the applicant is in business, the kind of business and location thereof.
 - (g) The location of the proposed store for the sale of alcoholic beverages.
 - (h) The name and address of the owner of the proposed store.

- (i) If the applicant is a partnership, the name, age and address of each partner and his occupation, business and employer.
- (2) The application required by subsection (1) shall be verified by the oath of each applicant and, in the event the applicant is a partnership, shall be verified by the oath of each partner.
- (3) The applicant for a certificate under this section shall agree to comply with the state and federal laws and the provisions of this code and other ordinances of the town and the rules and regulations of the Alcoholic Beverage Commission of the state with reference to the sale of alcoholic beverages.
- (4) An applicant for a certificate pursuant to subsection (1) may be required to appear in person before the town council for such examination as may be desired by the town council. He shall furnish such information as may be required pursuant to <u>Tennessee Code Annotated</u>, § 57-3-208.
- (5) The action of the town council on an application for a certificate of moral character shall be noted thereon.
- (6) The applicant for a certificate of moral character shall have been a bona fide resident of the county and the town for not less than two (2) years at the time his application is filed. (1985 Code, § 2-104, as replaced by Ord. #2019-15, Oct. 2019 *Ch20_06-28-21*)
- 8-105. <u>Municipal inspection fee</u>. Each retail dealer subject to this chapter shall pay the maximum inspection fee authorized by <u>Tennessee Code Annotated</u>, §§ 57-3-501 through 57-3-504. (1985 Code, § 2-101, as replaced by Ord. #2019-15, Oct. 2019 *Ch20_06-28-21*)
- 8-106. Location of any liquor store and/or establishment selling alcoholic beverages with more than eight percent (8%) alcohol content. (1) No liquor store and/or establishment selling alcoholic beverages with more than eight percent (8%) alcohol content shall be located anywhere on-premises in the town except on the ground floor thereof. Each such store shall have only one (1) main entrance; however, a wholesale liquor store located on the corner of two (2) streets may have a door opening on each street.
- (2) The location of any liquor store shall be located within a highway commercial zone and/or planned commerce center, as defined by the Signal Mountain Zoning Ordinance.
- (3) No liquor store and/or establishment selling alcoholic beverages with more than eight percent (8%) alcohol content shall be located within five hundred feet (500') for consumption on-premises, or two hundred feet (200') for consumption off the premises, as measured from any doorway entrance of the establishment regularly used for public ingress and egress to the nearest

¹See the Signal Mountain Zoning Ordinance for permitted and prohibited uses within various zoning classifications within the town.

- doorway entrance of any school, church, or other place of public gathering, specifically including day care centers, as defined in the Signal Mountain Zoning Ordinance. This location prohibition shall not apply to any proposed permit location within continuing care retirement communities with a special permit under the terms of Article XII of the Signal Mountain Zoning Ordinance in an area zoned High Density Residential (HDR) district.
- (4) No liquor store and/or establishment selling alcoholic beverages with more than eight percent (8%) alcohol content shall be permitted to operate within the Town of Signal Mountain until a certificate is obtained from the town council, as required by <u>Tennessee Code Annotated</u>, § 57-3-208 and the town receives an inspection fee authorized by <u>Tennessee Code Annotated</u>, § 57-3-501, to the maximum amount allowed by the State of Tennessee for the time of operation. (1985 Code, § 2-106, as replaced by Ord. #2009-2, Jan. 2009, Ord. #2009-6, May 2009, Ord. #2011-2, April 2011, and Ord. #2019-15, Oct. 2019 *Ch20_06-28-21*)
- 8-107. <u>Maximum number of wholesale and retail licenses</u>. The number of retail licenses issued and outstanding at any one (1) time shall be four (4), and the number of wholesale licenses so issued shall be no more than one (1). In considering applicants for wholesale licenses, preference shall be given to bona fide residents of the county. (1985 Code, § 2-108, as renumbered by Ord. #2001-5, Oct. 2001, and replaced by Ord. #2019-15, Oct. 2019 *Ch20_06-28-21*)
- 8-108. Brown bagging and corkage, generally. The provisions of this chapter shall apply to all persons who operate an establishment selling setups for mixed drinks or provide corkage setups for wine, and who permit brown bagging in their establishment. It shall not apply to those persons or businesses licensed or permitted under the provisions of chapter 2 or having a permit for the sale of alcoholic beverages for consumption on the premises issued by the alcoholic beverage commission of the state under the provisions of Tennessee Code Annotated, § 57-4-201. (as added by Ord. #2001-5, Oct. 2001, and replaced by Ord. #2019-15, Oct. 2019 *Ch20_06-28-21*)
- 8-109. <u>Definitions</u>. As used in this chapter, the following definitions shall apply:
- 1. "Brown bag" or "brown bagging" means the practice of patrons, customers or guests bringing alcoholic beverages upon their premises or any person selling setups for mixed drinks or providing corkage services for wine.
- 2. "Corkage" means the practice of providing patrons, customers, or guests with opening devices and glasses in connection with the consumption of wine.

- 3. "Person selling setups for mixed drinks" means and includes any person deriving receipts from the sale of setups for mixed drinks consumed on the premises.
- 4. "Setups for mixed drinks" means and include sales of water, soft drinks, fruit juices, or any item capable of being used to prepare a mixed drink at such establishment. (as added by Ord. #2001-5, Oct. 2001, and replaced by Ord. #2019-15, Oct. 2019 *Ch20_06-28-21*)
- 8-110. <u>Beer board and town police to enforce chapter</u>. 1. The town council which constitutes the Beer Board for the Town of Signal Mountain shall issue permits, and revoke or suspend licenses, except where such action would be inconsistent with any specific provision of this chapter.
- (2) The police officers of the Town of Signal Mountain shall enforce all laws, ordinances and rules regulating establishments selling setups for mixed drinks, wine consumption, or permitting brown bagging. (as added by Ord. #2001-5, Oct. 2001, and replaced by Ord. #2019-15, Oct. 2019 *Ch20_06-28-21*)
- 8-111. Hours of sale restricted. No permittee under this chapter shall sell any setup for purposes of mixing with alcoholic beverages, provide corkage services, sell any alcoholic beverages with more than eight percent (8%) alcohol content or permit any alcoholic beverages with more than eight percent (8%) alcohol content to be consumed or given away on the premises between the hours of twelve o'clock A.M. (12:00 A.M.) and ten-thirty A.M. (10:30 A.M.) seven (7) days per week, as authorized by Tennessee Code Annotated, § 57-4-203(d)(5), except by special permit. The permittee shall not permit or suffer the presence of any alcoholic beverages on the premises during such hours. Hours of operation for retailers to sell alcoholic beverages with more than eight percent (8%) alcohol content for off-site consumption shall be in accordance with current state law. (as added by Ord. #2001-5, Oct. 2001, and replaced with Ord. #2013-09, June 2013 and Ord. #2019-15, Oct. 2019 *Ch20_06-28-21*)
- 8-112. <u>Sales to incapacitated or incompetent persons prohibited</u>. No permittee under this chapter shall permit or allow any intoxicated person to be on the premises or to dispense, serve, sell setups or provide corkage to such persons. (as added by Ord. #2001-5, Oct. 2001, and replaced by Ord. #2019-15, Oct. 2019 *Ch20_06-28-21*)
- 8-113. Employment of minors. No person under the age of eighteen (18) years shall be permitted to dispense, serve, sell setups, or provide corkage in any establishment which has been issued a permit under this chapter. (as added by Ord. #2001-5, Oct. 2001, and replaced by Ord. #2019-15, Oct. 2019 *Ch20_06-28-21*)

- 8-114. <u>Public nuisance</u>. Permit holder shall not allow the premises to become a public nuisance or a nuisance to law enforcement agencies in the Town of Signal Mountain or materially contribute to creating or maintaining a public nuisance or to otherwise interfere with the public health, safety and/or morals. (as added by Ord. #2019-15, Oct. 2019 *Ch20_06-28-21*)
- 8-115. <u>Telephone and reports of disorders</u>. All permittees are required to maintain a telephone in good working order on the premises and to report all fights and other public disorders occurring on such premises immediately, whether or not participants in any such disorder have left the premises. (as added by Ord. #2001-5, Oct. 2001, and replaced by Ord. #2019-15, Oct. 2019 *Ch20_06-28-21*)
- 8-116.--8-127. <u>Reserved</u>. (as added by Ord. #2001-5, Oct. 2001, and replaced by Ord. #2019-15, Oct. 2019 *Ch20_06-28-21*)
- 8-128. Permit; required. No person shall engage in the business of operating establishments selling setups for mixed drinks, providing corkage services, or permit brown bagging on any premises without having been issued a permit therefor. Such permit shall be obtained upon application and payment of fees as hereinafter provided. A duly issued permit shall allow such establishments to permit its patrons, customers, or guests to bring alcoholic beverages upon its premises for purposes of personal consumption or to otherwise permit brown bagging. (as added by Ord. #2001-5, Oct. 2001, and replaced by Ord. #2019-15, Oct. 2019 *Ch20_06-28-21*)
- 8-129. Application: fee. 1. All applications for a permit to sell setups for mixed drinks or to permit brown bagging shall be filed with the town council. The police department shall make an investigation of the applicant and determine whether or not the location meets all the requirements of this chapter, and report all findings to the town council. The town council shall make such other and further investigation it deems advisable and shall issue or deny a permit in its discretion.
- 2. The application shall be accompanied by a fee of one hundred dollars (\$100.00) for use in offsetting the expense of investigating the applicant and an annual renewal fee of fifty dollars (\$50.00) every year thereafter to be paid on or before January 1 of each year. (as added by Ord. #2001-5, Oct. 2001, and replaced by Ord. #2019-15, Oct. 2019 *Ch20_06-28-21*)
- 8-130. <u>Location to be designated</u>. The location of the premises at which the business of the permittee will be conducted shall be designated in the permit and in the application therefor. (as added by Ord. #2001-5, Oct. 2001, and replaced by Ord. #2019-15, Oct. 2019 *Ch20_06-28-21*)

- 8-131. Grounds for refusal. 1. No permit shall be issued where the operation of the business conducted thereunder may cause congestion of traffic, interfere with schools, churches, parks or other places of public assembly, or otherwise interfere with the public health, safety and morals, or where this chapter or any other law would be violated, including, but not limited to, the zoning laws. No permit shall be issued to any person or premises wherein a permit to sell beer or other alcoholic beverages or a permit under this chapter has been revoked within three (3) years or is under suspension.
- 2. No such establishment shall be located within five hundred feet (500'), as measured from any doorway entrance of the applicant regularly used for public ingress and egress to the nearest doorway entrance to the school, church, or other place of public gathering to the nearest corner of the licensed establishment.
- 3. All applicants for a permit shall be required in their application to list and identify all schools, churches, or other places of public gathering which are believed to be within the distance specified in subsection (2) of this section.
- 4. The town council may, in its discretion, require any applicant for a permit to submit as a part of his application a survey by a duly licensed surveyor when a school, church, or other place of public assembly is in close proximity to the applicant's premises; and when, because of limiting conditions such as topography, the accuracy of other methods of measurement is deemed to be inadequate and a survey is deemed reasonably necessary to establish an accurate distance relative to the applicant's entitlement to a permit under the provisions of this section.
- 5. To the extent that it shall be called to the attention of the town council that it may have issued any permit to a location not qualified under the provision of this section, then it shall be the duty of the beer board, upon notice to the permittee and an opportunity for the permittee to be heard, to revoke any permits which have been issued in violation of this section. (as added by Ord. #2001-5, Oct. 2001, and replaced by Ord. #2019-15, Oct. 2019 **Ch20_06-28-21**)
- 8-132. When town council may issue. The town council shall issue no permit until the application therefor has been approved following a public hearing at a regularly scheduled council meeting with reasonable public notice. (as added by Ord. #2001-5, Oct. 2001, and replaced by Ord. #2019-15, Oct. 2019 *Ch20_06-28-21*)
- 8-133. <u>To be posted</u>. Any permit issued under this chapter shall be posted in a conspicuous place on the premises of the permittee. (as added by Ord. #2001-5, Oct. 2001, and replaced by Ord. #2019-15, Oct. 2019 *Ch20 06-28-21*)

- 8-134. <u>Not transferable</u>. No permit issued by the town council under the provisions of this chapter shall be transferable from one person to another. (as added by Ord. #2001-5, Oct. 2001, and replaced by Ord. #2019-15, Oct. 2019 *Ch20_06-28-21*)
- 8-135. Grounds for revocation or suspension. 1. The town council shall revoke or suspend, and shall be charged with the duty of revoking or suspending, any permits issued by it, upon notice to the permittee and a hearing thereon, for any violation of any provisions of this chapter or any other ordinance, state law or regulation or federal law or regulation governing the operation of such establishments or when the permittee:
 - a. Operates a disorderly place;
 - b. Allows gambling on the premises;
 - c. Allows fighting or boisterous or disorderly conduct on the premises;
 - d. Has been convicted by final judgment of a court of competent jurisdiction of a crime involving moral turpitude;
 - e. Allows minors to congregate about the premises after normal hours of business;
 - f. Sells or transfers the equipment or assets of the business authorized by his permit to another for the purpose of conducting the business at the same location:
 - g. Has made a false statement of a material fact in any application or notice to the board;
 - h. Sells, furnishes, disposes of or gives, or causes to be sold, furnished, disposed of or given, any setup to any person under the age of twenty-one (21) years when it reasonably appears that such person under the age of twenty-one (21) years will use the setup for purposes of mixing a drink with any alcoholic beverages;
 - i. Denies access to any portion of the premises wherein the use of setups for mixing alcoholic beverages is permitted, whether or not that portion of the premises issued specifically for the sale of setups;
 - j. Has been convicted by final judgment of any court of competent jurisdiction of any crime or misdemeanor involving the sale or consumption of beer or alcoholic beverages;
 - k. Allows violation of any provision of this chapter to occur on the licensed premises;
 - l. Allows violations of the rules and regulations of the health department; resulting in revocation or suspension of any permit issued by the health department;
 - m. Consumes or permits any employee to consume any alcoholic beverages while on the premises, or to be intoxicated while on the premises;

- n. Allows litter or debris to accumulate in or around the premises, including the sidewalks and streets adjacent thereto; and/or fails to provide and maintain adequate solid waste containers and resolve nuisance problems in connection with such containers; or
- o. Allows any server under eighteen (18) years of age to serve any set-ups without being in full compliance with <u>Tennessee Code</u> Annotated, § 57-3-704.
- 2. The town council may also, in its discretion, revoke a permit for due cause not specified herein. (as added by Ord. #2001-5, Oct. 2001, and replaced by Ord. #2019-15, Oct. 2019 *Ch20_06-28-21*)
- 8-136. Authority of the town to levy and collect privilege taxes from all individuals engaged in the business of selling alcoholic beverages for consumption on the premises. Pursuant to Tennessee Code Annotated, § 57-4-301, the General Assembly of the State of Tennessee has declared a legislative intent that every person that is exercising a taxable privilege, who engages in the business of selling at retail in the state, alcoholic beverages for consumption on the premises. Pursuant to Tennessee Code Annotated, § 57-4-301(b)(2), each municipality within which such privilege is exercised is further authorized to levy and collect the privilege tax separately. As such, the Town of Signal Mountain authorizes the town manager to levy and collect privilege taxes on behalf of the town as authorized by Tennessee Code Annotated, § 57-4-301(b)(2) for the privilege of selling alcoholic beverages for consumption on the premises within the town limits. (as added by Ord. #2003-1, Jan. 2003, and replaced by Ord. #2019-15, Oct. 2019 Ch20_06-28-21)

$BEER^1$

- 8-201. Beer board established; powers and duties.
- 8-202. Beer permit required for engaging in beer business.
- 8-203. [Deleted.]
- 8-204. Hours of sale restricted.
- 8-205. Prohibited conduct or activities by beer permit holders.
- 8-206. Revocation or suspension of beer permits.
- 8-207. Privilege tax.
- 8-208. Number of retail beer licenses.
- 8-209. Sale of beer is permitted subject to law.
- 8-210. [Deleted.]
- 8-211. Beer board and town police to enforce chapter.
- 8-212. [Deleted.]
- 8-213. Solicitations of home delivery service prohibited.
- 8-214. Offenses involving minors; loitering; gambling.
- 8-215. Unauthorized use or consumption of beverages on premises.
- 8-216. Sales to incapacitated or incompetent persons prohibited.
- 8-217. Use of premises not authorized by permit.
- 8-218. Employment of former violators.
- 8-219. Employment of minors.
- 8-220. [Deleted.]
- 8-221. Telephone and reports of disorders.
- 8-222. Penalty.
- 8-223--8-239. Reserved.
- 8-240. Permits; required generally--application.
- 8-241. Approval or rejection of application.
- 8-242. Location of premises to be designated.
- 8-243. When to be refused.
- 8-244. Applicant to pay all taxes required by state law.
- 8-245. When town council may issue.
- 8-246. To be posted.
- 8-247. Not transferable.

¹For a leading case in Tennessee on a municipality's authority to regulate beer, see the Tennessee Supreme Court decision in <u>Grubb et al. v. Mayor and Aldermen of Morristown et al.</u>, 185 Tenn. 114, 203 S.W.2d 593 (1947).

For applicable tax provisions, see title 5; for miscellaneous provisions prohibiting minors in beer places and prohibiting drinking beer on streets, etc., see title 11.

- 8-248. Possession of federal license without town permit.
- 8-249. Grounds for revocation or suspension.
- 8-250. [Deleted.]
- 8-251--8-254. Reserved.
- 8-255. Regulation of outdoor advertising.
- 8-256--8-269. Reserved.
- 8-201. <u>Beer board established; powers and duties</u>. The town council shall comprise the Beer Board for the Town of Signal Mountain. The beer board shall have the power and duty to regulate the selling, storing for sale, distributing for sale, giving away, "brown bagging" and manufacturing of beer within the town in accordance with the provisions of this chapter. (1985 Code, § 2-201, as replaced by Ord. #2019-15, Oct. 2019 *Ch20_06-28-21*)
- 8-202. Beer 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 from the beer board a permit. The application shall be made on such form as the board shall provide and furnish and shall be accompanied by a nonrefundable application fee of two hundred fifty dollars (\$250.00). All beer permits shall be restricted as to the type of beer business authorized under them. Separate permits shall be required for selling at retail, storing, distributing, and manufacturing and it shall be unlawful for any beer permit holder to engage in any phase of the beer business not authorized in his permit.
- (2) Provided all requirements and applicable provisions of this chapter are met, a single permit for retail sales may be issued to allow sales for both on-premises and off-premises consumption. (1985 Code, § 2-202, as amended by Ord. #93-12, Aug. 1992, and replaced by Ord. #2019-15, Oct. 2019 *Ch20 06-28-21*)
- 8-203. [Deleted.] (1985 Code, § 2-203, as deleted by Ord. #2001-5, Oct. 2001, and deleted by Ord. #2019-15, Oct. 2019 *Ch20_06-28-21*)
- 8-204. Hours of sale restricted. (1) No permittee under this chapter shall sell or give away beer to be consumed on the premises within the corporate limits of the town between the hours of twelve o'clock A.M. (12:00 A.M.) and ten thirty A.M. (10:30 A.M.) seven (7) days per week except by special permit.
- (2) No permittee under this chapter shall sell beer for off-site consumption within the corporate limits of the town between the hours of three o'clock A.M. (3:00 A.M.) and seven o'clock A.M. (7:00 A.M.) seven (7) days per week. (1985 Code, § 2-204, as amended by Ord. #92-1, and replaced by Ord. #2013-09, June 2013 and Ord. #2019-15, Oct. 2019 *Ch20_06-28-21*)

- 8-205. <u>Prohibited conduct or activities by beer permit holders</u>. 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 person under eighteen (18) 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) Allow any loud, unusual, or obnoxious noises to emanate from his premises.
- (4) Make or allow any sale of beer to a person under twenty-one (21) years of age. The burden of ascertaining the age of minor customers shall be upon the owner or operator of the business.
- (5) Allow any person under twenty-one (21) years of age to loiter in or about his place of business. The burden of ascertaining the age of minor customers shall be upon the owner or operator of the business.
- (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 intoxicated persons to loiter about his premises.
- (8) Serve, sell, or allow the consumption on his premises beer or any alcoholic beverage with an alcoholic content of more than eight percent (8%) by weight without the appropriate license/permit.
- (9) Allow gambling on his premises except as otherwise allowed by state law.
- (10) Allow the premises to become a public nuisance or a nuisance to law enforcement agencies in the Town of Signal Mountain or materially contribute to creating or maintaining a public nuisance or to otherwise interfere with the public health, safety and/or morals. (1985 Code, § 2-205, as replaced by Ord. #2019-15, Oct. 2019 *Ch20 06-28-21*)
- 8-206. Revocation or suspension of beer permits. The beer board shall have the power to revoke or suspend any beer permit issued under the provisions of this chapter when the holder thereof is guilty of making a false statement or misrepresentation in his application or of violating any of the provisions of this chapter. However, no beer permit shall be revoked or suspended until a public hearing is held by the board after reasonable notice to all the known parties in interest. Revocation or suspension proceedings may be initiated by the police chief or by any member of the town council. (1985 Code, § 2-206, as replaced by Ord. #2019-15, Oct. 2019 *Ch20_06-28-21*)
- 8-207. <u>Privilege tax</u>. (1) There is hereby imposed on the business of selling beer in the Town of Signal Mountain, a privilege tax of one hundred dollars (\$100.00).

- (2) Any person, firm, corporation, joint stock company, syndicate or association engaged in the business of selling beer in the town shall remit the tax on January 1, 1994, and each successive January 1. The tax shall be remitted to the official identified by the town in the notice required by subsection (3) herein for businesses located within the incorporated limits of the town.
- (3) The town shall mail written notice to each permit holder of the payment date of the annual tax at least thirty (30) days prior to January 1. Notice shall be mailed to the address specified by the permit holder on its permit application. If a permit holder does not pay the tax by January 31 or within thirty (30) days after written notice of the tax was mailed, whichever is later, then the town shall notify the permit holder by certified mail that the tax payment is past due. If a permit holder does not pay the tax within ten (10) days after receiving notice of its delinquency by certified mail, then the permit shall be void.
- (4) At the time a new permit is issued to any business subject to this tax, the permit holder shall be required to pay the privilege tax on a prorated basis for each month or portion thereof remaining until the next tax payment date.
- (5) For the purposes of this section, a bona fide charitable or nonprofit organization which has been recognized as exempt from federal taxes under section 501(c) of the Internal Revenue Code, shall not be considered a "business" and shall not be subject to a privilege tax. (as added by Ord. #93-13, Aug. 1993, as replaced by Ord. #2019-15, Oct. 2019 *Ch20_06-28-21*)
- 8-208. Number of retail beer licenses. The town council may establish the number of retail beer licenses to be issued and outstanding at any time by the beer board. (as added by Ord. #97-7, July 1997, as replaced by Ord. #2008-16, Dec. 2008 and Ord. #2019-15, Oct. 2019 *Ch20_06-28-21*)
- 8-209. <u>Sale of beer is permitted subject to law</u>. It shall be lawful to sell, store and possess beer of alcoholic content of not more than eight percent (8%) by weight and other beverages of like alcoholic content in the Town of Signal Mountain, subject to all regulations, limitations and restrictions provided by chapter 5 of title 57 of the <u>Tennessee Code Annotated</u>, as amended, and subject to the provisions of this chapter. (as added by Ord. #2001-5, Oct. 2001, and replaced by Ord. #2019-15, Oct. 2019 *Ch20_06-28-21*)

Authority to regulate and license sale of beer and other light alcoholic beverages, <u>Tennessee Code Annotated</u>, § 57-5-108.

¹State law reference

- 8-210. [Deleted]. (as added by Ord. #2001-5, Oct. 2001, and deleted by Ord. #2019-15, Oct. 2019 *Ch20 06-28-21*)
- 8-211. <u>Beer board and town police to enforce chapter</u>. (1) The town council which constitutes the Beer Board for the Town of Signal Mountain shall issue permits, and revoke or suspend licenses, except where such action would be inconsistent with any specific provision of this chapter.
- (2) The police officers of the Town of Signal Mountain shall enforce all laws, ordinances and rules regulating the sale of beer or other beverages of like alcohol content and related provisions contained in this title. (as added by Ord. #2001-5, Oct. 2001, and as replaced by Ord. #2019-15, Oct. 2019 *Ch20_06-28-21*)
- 8-212. [Deleted]. (as added by Ord. #2001-5, Oct. 2001, and deleted by Ord. #2019-15, Oct. 2019 *Ch20_06-28-21*)
- 8-213. <u>Solicitations of home delivery service prohibited</u>. It shall be unlawful for any unlicenced holder to solicit, either in person or by telephone, the sale or delivery of beer, or to make sales or home deliveries of beer. (as added by Ord. #2001-5, Oct. 2001, and replaced by Ord. #2019-15, Oct. 2019 *Ch20_06-28-21*)
- 8-214. Offenses involving minors; loitering; gambling. 1. No sale of beer or other alcoholic beverages shall be made to any person under the age of twenty-one (21) years; nor, shall any person under the age of twenty-one (21) consume any alcoholic beverages; nor shall any person purchase or otherwise obtain any such beverage for any person under the age of twenty-one (21).
- 2. No permittee shall allow any person to loiter about the place of business after the hours of operation. The burden of ascertaining the age of such customer shall be upon the owner or operator of such place of business; provided, that nothing herein shall be deemed to prohibit the employment of persons age eighteen (18) years of age or over.
- 3. No permittee shall allow any gambling or gambling devices on the business premises, except as otherwise allowed by state law. (as added by Ord. #2001-5, Oct. 2001, and replaced by Ord. #2019-15, Oct. 2019 *Ch20_06-28-21*)
- 8-215. <u>Unauthorized use or consumption of beverages on premises</u>. No permittee under this chapter whose permit authorizes sale for consumption off the premises only shall sell for consumption on the premises, nor shall permittee allow any consumption to take place on the premises. (as added by Ord. #2001-5, Oct. 2001, and replaced by Ord. #2019-15, Oct. 2019 *Ch20 06-28-21*)

- 8-216. Sales to incapacitated or incompetent persons prohibited. No permittee under this chapter shall make or allow any sale to any intoxicated person or to any known feeble-minded, insane or otherwise mentally incapacitated person; nor allow any such person to loiter on or about the premises. (as added by Ord. #2001-5, Oct. 2001, and replaced by Ord. #2019-15, Oct. 2019 *Ch20_06-28-21*)
- 8-217. <u>Use of premises not authorized by permit</u>. No beer or other beverages of like alcoholic content shall be manufactured, stored or sold except at the premises designated in the permit therefor. (as added by Ord. #2001-5, Oct. 2001, and replaced by Ord. #2019-15, Oct. 2019 *Ch20_06-28-21*)
- 8-218. Employment of former violators. No person shall be employed in the sale or storage of beer or other beverages of like alcoholic content who has been convicted within the preceding ten (10) years of any violation of the laws of the state against the sale, manufacture, possession, consumption or transportation of intoxicating liquors, or of any crime involving moral turpitude, be so employed. (as added by Ord. #2001-5, Oct. 2001, and replaced by Ord. #2019-15, Oct. 2019 *Ch20_06-28-21*)
- 8-219. <u>Employment of minors</u>. No person under the age of eighteen (18) years shall be permitted to sell or dispense alcoholic beverages, wine, or beer in the course of their employment. (as added by Ord. #2001-5, Oct. 2001, and replaced by Ord. #2019-15, Oct. 2019 *Ch20_06-28-21*)
- 8-220. [Deleted]. (as added by Ord. #2001-5, Oct. 2001, and deleted by Ord. #2019-15, Oct. 2019 *Ch20_06-28-21*)
- 8-221. <u>Telephone and reports of disorders</u>. All permittees under this chapter are required to maintain a telephone in good working order on the premises and to report all fights and other public disorders occurring on such premises immediately, whether or not participants in any such disorder have left the premises. (as added by Ord. #2001-5, Oct. 2001, and replaced by Ord. #2019-15, Oct. 2019 *Ch20_06-28-21*)
- 8-222. <u>Penalty</u>. Any violation of this chapter shall be punishable by a civil penalty of a sum not more than five hundred dollars (\$500.00). Violation of this chapter shall constitute grounds for the revocation of the license, or for a suspension in the discretion of the town council. (as added by Ord. #2001-5, Oct. 2001, and replaced by Ord. #2019-15, Oct. 2019 *Ch20_06-28-21*)
- 8-223--8-239. Reserved. (as added by Ord. #2001-5, Oct. 2001, and replaced by Ord. #2019-15, Oct. 2019 $\it Ch20_06-28-21$)

- 8-240. <u>Permits; required generally--application</u>. (1) No person shall engage in selling, possessing or storing beer or other beverages of like alcoholic content in the city until the business tax authorized by law has been paid and a permit issued to such person.
- (2) It shall be unlawful for any person not holding a permit for the sale of beer or other beverages of like alcoholic content to sell or offer for sale beer or other beverages of like alcoholic content at any time within the city.
- (3) The applicant for a permit for the sale of beer or other beverage of like alcoholic content shall pay to the Town of Signal Mountain an application fee of two hundred fifty dollars (\$250.00), imposed for the cost of investigating the location and the character of the applicant, for each location for which a beer permit is sought. Such fee shall apply to all applications for each and every classification of beer permit including any initial or first-time application. This fee is nonrefundable and shall be in addition to any other fees or taxes specified herein.
- (4) Applications must be delivered to the town manager, at the town hall, at least fifteen (15) days prior to the meeting at which the beer board will convene to consider action on the application.
 - (5) The application shall distinctly state:
 - (a) Name of the applicant;
 - (b) Name of applicant's business;
 - (c) Location of business by street address or other geographical description to permit an accurate determination of conformity with the requirements of this section;
 - (d) If beer will be sold at two (2) or more restaurants or other businesses within the same building pursuant to the same permit;
 - (e) Identity and addresses of persons, firms, corporations, joint stock companies, syndicates, or associations having at least a five percent (5%) ownership interest in the applicant;
 - (f) Identity and address of a representative to receive annual tax notices and any other communication from the county legislative body or its committee;
 - (g) That no person, firm, joint-stock company, syndicate, or association having at least a five percent (5%) ownership interest in the applicant nor any person to be employed in the distribution or sale of beer has been convicted of any violation of the laws against possession, sale, manufacture, or transportation of beer or other alcoholic beverages or any crime involving moral turpitude within the past ten (10) years;
 - (h) Whether or not the applicant is seeking a permit which would allow the sale of beer either for on-premises consumption or for off-premises consumption, or both of the foregoing; and
 - (i) Such other information as may be required by the Town Council of the Town of Signal Mountain. An applicant or permit holder shall be required to amend or supplement its application promptly if a

- change in circumstances affects the responses provided in its application. Any applicant making a false statement in the application shall forfeit the permit and shall not be eligible to receive any permit for a period of ten (10) years.
- (6) Notice of all applications for permits shall be given to the police chief, fire chief/fire marshal and building official, so that they may make such inspections as shall be advisable to check the premises for compliance with the provisions of this chapter, fire codes, building codes, and zoning ordinances. (as added by Ord. #2001-5, Oct. 2001, and replaced by Ord. #2019-15, Oct. 2019 *Ch20_06-28-21*)
- 8-241. Approval or rejection of application. The town council shall consider each application filed for a permit under this section, and shall grant or refuse the permit according to its best judgment, under all the facts and circumstances, and endorse its action on the application. The action of the town council in granting or refusing a permit shall be final, except as it may be subject to review at law. (as added by Ord. #2001-5, Oct. 2001, and replaced by Ord. #2019-15, Oct. 2019 *Ch20_06-28-21*)
- 8-242. <u>Location of premises to be designated</u>. The location of the premises where any beer sales will be conducted shall be provided in the application and documented on the permit for beer sales within the town. (as added by Ord. #2001-5, Oct. 2001, and replaced by Ord. #2009-6, May 2009 and Ord. #2019-15, Oct. 2019 *Ch20_06-28-21*)
- 8-243. When to be refused. (1) No permit required by this section shall be issued where the operation of the business conducted thereunder may cause congestion of traffic, interfere with schools, churches, parks or other places of public assembly, or otherwise interfere with the public health, safety and morals, or where this chapter or any other law would be violated, including, but not limited to, the zoning laws.
- (2) No permit for on-premises consumption shall be issued unless the business has a seating capacity of at least twenty-five (25) customers and offers prepared food for sale during all hours of operation.
- (3) The sale of beer or other beverages of like alcoholic content for consumption on the premises within five hundred feet (500'), or two hundred feet (200') for consumption off the premises, as measured from any doorway entrance to the building of the applicant regularly used for public ingress or egress to the nearest doorway entrance to the school, church, adult-oriented establishment, or other place of public gathering regularly used for public ingress or egress shall be prohibited. This location prohibition shall not apply to any proposed permit location within continuing care retirement communities with a special permit under the terms of Article XII of the Signal Mountain Zoning Ordinance in an area zoned High Density Residential (HDR) district.

- (4) All applicants for a beer permit shall be required in their application to list and identify all schools, churches, or other places of public gathering which are believed to be within the distance specified in subsection (2).
- (5) The town council may, in its discretion, require any applicant for a beer permit to submit as a part of his application a survey by a duly licensed surveyor when a school, church, or other place of public assembly is in close proximity to the applicant's premises; and when, because of limiting conditions such as topography, the accuracy of other methods of measurement is deemed to be inadequate and survey is deemed reasonably necessary to establish an accurate distance relative to the applicant's entitlement to a permit under the provisions of this section.
- (6) To the extent that it shall be called to the attention of the town council that it may hereafter have issued any beer permit to a location not qualified under the provision of this section or that a nonconforming permittee within the prohibited distance provision has ceased to sell beer for more than six (6) months, then it shall be the duty of the town council, upon notice to the permittee and an opportunity for the permittee to be heard, to revoke any permits which have been issued in violation of this section.
- (7) No permit required by this section shall be issued where a person, firm, corporation, joint stock company, syndicate, or association having at least a five percent (5%) ownership interest in the applicant has been convicted of any violation of the laws against possession, sale, manufacture or transportation of beer or other alcoholic beverages or any crime involving moral turpitude within the past ten (10) years, or has had a permit under this chapter revoked within three (3) years or is currently under suspension. (as added by Ord. #2001-5, Oct. 2001, and replaced by Ord. #2011-2, April 2011 and Ord. #2019-15, Oct. 2019 *Ch20_06-28-21*)
- 8-244. Applicant to pay all taxes required by state law. The applicant shall submit satisfactory evidence to the town council that it has registered and paid the Department of Revenue of the state all outstanding taxes on beer sales as provided by <u>Tennessee Code Annotated</u>, §§ 57-5-201, <u>et seq</u>. (as added by Ord. #2001-5, Oct. 2001, and replaced by Ord. #2019-15, Oct. 2019 *Ch20_06-28-21*)
- 8-245. When town council may issue. The town council shall issue no permit under this division until the application therefor has been approved following a public hearing at a regularly scheduled council meeting with reasonable notice. (as added by Ord. #2001-5, Oct. 2001, and replaced by Ord. #2019-15, Oct. 2019 *Ch20_06-28-21*)
- 8-246. To be posted. The permit issued under this chapter shall be posted in a conspicuous place on the premises of the permittee. (as added by

- Ord. #2001-5, Oct. 2001, and replaced by Ord. #2019-15, Oct. 2019 Ch20_06-28-21)
- 8-247. <u>Not transferable</u>. No permit issued by the town council under the provisions of this chapter shall be transferred from one person to another. (as added by Ord. #2001-5, Oct. 2001, and replaced by Ord. #2019-15, Oct. 2019 *Ch20_06-28-21*)
- 8-248. <u>Possession of federal license without town permit</u>. The possession by any person of any federal license to sell alcoholic beverages without the corresponding town permit required by this chapter shall be prima facie evidence in all cases that the holder of such federal license is selling beer or other beverages of like alcoholic content in violation of the provisions of this chapter. (as added by Ord. #2001-5, Oct. 2001, and replaced by Ord. #2019-15, Oct. 2019 *Ch20_06-28-21*)
- 8-249. Grounds for revocation or suspension. (1) The town council shall revoke or suspend, and shall be charged with the duty of revoking or suspending, any permits issued by it under this division, upon notice to the permittee and a hearing thereon, for any violation of any provision of state law regulating the sale, storage and transportation of alcoholic beverages or for any violation of any provision of this code or any other ordinance of the town or when the permittee:
 - (a) Operates a disorderly place;
 - (b) Allows gambling on the premises;
 - (c) Allows fighting or boisterous or disorderly conduct on the premises;
 - (d) Has been convicted by final judgment of a court of competent jurisdiction of a crime involving moral turpitude;
 - (e) Allows minors to congregate about the premises after normal business hours:
 - (f) Sells or transfers the equipment or assets of the business authorized by his permit to another for the purpose of conducting the business at the same location;
 - (g) Has made a false statement of a material fact in any application or notice to the board;
 - (h) Sells, furnishes, dispenses or allows to be used or consumed, any beer or other alcoholic beverages to any person under the age of twenty-one (21) years; except to the extent lawful under this code;
 - (i) Denies access to any portion of the premises at which the sale of beer is permitted, whether or not that portion of the premises issued for the sale of beer, to any policeman or inspector;

- (j) Allows any server under eighteen (18) years of age to serve beer without being in full compliance with <u>Tennessee Code Annotated</u>, § 57-3-704;
- (k) Has been convicted by final judgment of any court of competent jurisdiction of any crime or misdemeanor involving the sale or consumption of beer or alcoholic beverages;
- (l) Allows any violation of any provision of this chapter to occur on the licensed premises;
- (m) Allows violations of the rules and regulations of the health department resulting in revocation or suspension of any permit issued by the health department;
- (n) Consumes or permits an employee to consume any beer or any alcoholic beverage while on the premises, or to be intoxicated while on the premises;
- (o) Allows litter or debris to accumulate in or around the premises, including the sidewalks and streets adjacent thereto; and/or fails to provide and maintain adequate solid waste containers and resolve nuisance problems in connection with such containers; or
- (p) The town council may also, in its discretion, revoke a permit for due cause not specified herein.
- (2) The town council in its capacity as beer board may, at the time it imposes a revocation or suspension, offer a permit holder the alternative of paying a civil penalty not to exceed one thousand five hundred dollars (\$1,500.00) 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. 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, (as added by Ord. #2001-5, Oct. 2001, and replaced by Ord. #2019-15, Oct. 2019 *Ch20_06-28-21*)
- 8-250. [Deleted]. (as added by Ord. #2001-5, Oct. 2001, and deleted by Ord. #2019-15, Oct. 2019 *Ch20_06-28-21*)
- 8-251--8-254. <u>Reserved</u>. (as added by Ord. #2001-5, Oct. 2001, and replaced by Ord. #2019-15, Oct. 2019 *Ch20 06-28-21*)
- 8-255. <u>Regulation of outdoor advertising</u>. Outdoor advertising signs that advertise beer are regulated as follows:
- (1) No outdoor sign, advertisement or display that advertises beer may be erected or maintained on the property on which a retail beer establishment is located.

- (2) Any proposed outdoor sign shall be reviewed and approved by the design review commission for compliance with all existing town ordinances prior to installation. (as added by Ord. #2001-5, Oct. 2001, and replaced by Ord. #2019-15, Oct. 2019 $\it Ch20_06-28-21$)
- 8-256--8-269. Reserved. (as added by Ord. #2001-5, Oct. 2001, and replaced by Ord. #2019-15, Oct. 2019 $\it Ch20_06-28-21$)

SPECIAL BEER PERMITS

- 8-301. Types of special beer permits.
- 8-302. Temporary beer permit.
- 8-303. Special occasion beer permit single event.
- 8-304. Special occasion beer permit multiple event.
- 8-305. Special occasion beer permits for events on town property.
- 8-306. Events not subject to permit.
- 8-301. <u>Types of special beer permits</u>. The beer board is authorized to issue special beer permits as outlined below and further detailed in this chapter.
 - (1) Temporary beer permit.
 - (2) Special occasion beer permit single event.
- (3) Special occasion beer permit multiple events. (as added by Ord. #2019-15, Oct. 2019 *Ch20_06-28-21*)
- 8-302. <u>Temporary beer permit</u>. (1) Temporary beer permits not to exceed thirty (30) days' duration may be issued at the request of an applicant on the same conditions governing permanent permits, provided:
 - (a) Such temporary permits shall not be issued for the sale of beer on publicly-owned property without the approval of the appropriate governmental authority charged with the management of such property.
 - (b) If the sale of beer covered by the temporary permit is to take place on property not owned by the applicant, a written statement of approval from the owner must accompany the temporary permit application.
- (2) The beer board is authorized to place any and all restrictions it deems necessary on temporary permits, including, but not limited to, restricted hours of sale, limitations on the number of sale locations/stations on the property or other time, place and manner restrictions as deemed proper in consideration of traffic interruption, public safety, health, welfare, convenience, peace and/or order.
- (3) All provisions of chapter 2 of this title pertaining to hours of sale, prohibited conduct, location restrictions and application/applicant requirements are applicable to temporary beer permits and permittees. (as added by Ord. #2019-15, Oct. 2019 *Ch20_06-28-21*)
- 8-303. Special occasion beer permit single event. (1) Bona fide charitable or nonprofit organizations which have been recognized as exempt from federal taxes under section 501(c) of the Internal Revenue Code, may

obtain a special occasion beer permit for a single event, which will last no more than two (2) consecutive days, provided:

- (a) Such permits shall not be issued for the sale/dispensing of beer on publicly-owned property without the approval of the appropriate governmental authority charged with the management of such property.
- (b) If the sale/dispensing of beer covered by such a permit is to take place on private property not owned by the applicant, a written statement of approval from the owner must accompany the temporary permit application.
- (2) The application for such a permit must also be accompanied by:
 - (a) Town of Signal Mountain Special Event Permit Application.
- (b) Documentation establishing/verifying the organization's status as a charitable or nonprofit organization under section 501(c) of the Internal Revenue Code.
- (3) Applications must be delivered to the town manager, at the town hall, at least fifteen (15) days prior to the meeting at which the beer board will convene to consider action on the application.
- (4) The beer board is authorized to place any and all restrictions it deems necessary on special occasion permits, including, but not limited to, restricted hours of sale, limitations on the number of sale locations/stations on the property or other time, place and manner restrictions as deemed proper in consideration traffic interruption, public safety, health, welfare, convenience, peace and/or order.
- (5) Qualified applicants for such a permit will not be required to pay the privilege tax associated with business-oriented beer permits.
- (6) The permit holder, both the organization and its authorized applicant, are responsible for ensuring compliance with all laws and ordinances associated with the sale, dispensing and consumption of alcohol on the permitted premises during the event.
- (7) All proceeds generated from the sale of beer pursuant to such a permit must be deposited into the permittee's (organization) monetary account(s). Documentation of such shall be subject to request and review by the beer board.
- (8) Except as specifically excluded by this section, all provisions of chapter 2 of this title pertaining to hours of sale, prohibited conduct, location restrictions and application/applicant requirements are applicable to temporary beer permits and permittees. (as added by Ord. #2019-15, Oct. 2019 *Ch20_06-28-21*)
- 8-304. Special occasion beer permit multiple event. (1) Bona fide charitable or nonprofit organizations which have been recognized as exempt from federal taxes under section 501(c) of the Internal Revenue Code, may obtain a special occasion beer permit for multiple events, provided:

- (a) Such permit shall be valid for a specified period of time but, in no case, shall a permit be valid for more than one (1) calendar year.
- (b) Such permit will allow a specified number of events and shall be limited to:
 - (i) No more than twelve (12) events per calendar year.
 - (ii) No more than two (2) events in any calendar month.
 - (iii) Each event shall last no more than two (2) consecutive days.
- (c) Such permits shall not be issued for the sale/dispensing of beer on publicly-owned property without the approval of the appropriate governmental authority charged with the management of such property.
- (d) If the sale/dispensing of beer covered by such a permit is to take place on private property not owned by the applicant, a written statement of approval from the owner must accompany the temporary permit application.
- (2) The application for such a permit must also be accompanied by:
- (a) Town of Signal Mountain Special Event Permit Application If exact date and event details are not known at the time of application, each event must be approved by the beer board at least thirty (30) days in advance of the proposed event date.
- (b) Documentation establishing/verifying the organization's status as a charitable or nonprofit organization under section 501(c) of the Internal Revenue Code.
- (3) Applications must be delivered to the town manager, at the town hall, at least fifteen (15) days prior to the meeting at which the beer board will convene to consider action on the application.
- (4) The beer board is authorized to place any and all restrictions it deems necessary on special occasion permits, including, but not limited to, restricted hours of sale, limitations on the number of sale locations/stations on the property or other time, place and manner restrictions as deemed proper in consideration traffic interruption, public safety, health, welfare, convenience, peace and/or order.
- (5) Qualified applicants for such a permit will not be required to pay the privilege tax associated with business-oriented beer permits.
- (6) The permit holder, both the organization and its authorized applicant, are responsible for ensuring compliance with all laws and ordinances associated with the sale, dispensing and consumption of alcohol on the permitted premises during the event.
- (7) All proceeds generated from the sale of beer pursuant to such a permit must be deposited into the permittee's (organization) monetary account(s). Documentation of such shall be subject to request and review by the beer board.
- (8) Except as specifically excluded by this section, all provisions of chapter 2 of this title pertaining to hours of sale, prohibited conduct, location

restrictions and application/applicant requirements are applicable to temporary beer permits and permittees. (as added by Ord. #2019-15, Oct. 2019 *Ch20_06-28-21*)

- 8-305. Special occasion beer permits for events on town property.
- (1) The beer board may consider and issue special occasion beer permits for events at the following town properties:
 - (a) The Mountain Arts Community Center.
 - (b) The Amphitheatre (Rolling Way at James Blvd.).
 - (c) The Signal Mountain Library.
 - (d) Other town owned facilities or property, provided:
 - (i) Proposed site diagram and plan of operation is submitted with application.
 - (ii) Applications must be delivered to the town manager, at the town hall, at least thirty (30) days prior to the meeting at which the beer board will convene to consider action on the application.
- (2) The beer board is authorized to place any and all restrictions it deems necessary on special occasion permits, including, but not limited to, restricted hours of sale, limitations on the number of sale locations/stations on the property or other time, place and manner restrictions as deemed proper in consideration traffic interruption, public safety, health, welfare, convenience, peace and/or order.
- (3) In addition to all other requirements associated with the special occasion beer permits, the applicant/permittee must:
 - (a) Submit to the town a certificate of insurance which provides a minimum of one million dollars (\$1,000,000.00) in coverage, specifically covers alcohol liability and names the Town of Signal Mountain as an additional insured.
 - (b) Complete a Town of Signal Mountain Facility Use Agreement.
- (4) Where applicable, events must be held outside normal operating hours or, at a minimum, fully segregated from any other operations, functions or activities within the facility. (as added by Ord. #2019-15, Oct. 2019 *Ch20_06-28-21*)
- 8-306. Events not subject to permit. (1) Any event which is catered and the caterer has a valid TABC license to serve alcohol is not required to obtain a special occasion beer permit. The beer board does require notice of such events and the event coordinator must furnish to the town a copy of the notice of catered event form, which the caterer submits to the TABC no later than five (5) days prior to the event.

(2) Event coordinators holding events at town properties outlined in \S 8-305 are required to fulfill and/or comply with all other provisions of that section. (as added by Ord. #2019-15, Oct. 2019 $Ch20_06-28-21$)

TITLE 9

BUSINESS, PEDDLERS, SOLICITORS, ETC.

CHAPTER

- 1. PEDDLERS, ETC.
- 2. SPECIAL AND LIQUIDATION SALES.
- 3. SHORT-TERM VACATION RENTALS.

CHAPTER 1

PEDDLERS, ETC.¹

- 9-101. Permit required.
- 9-102. Restrictions on peddlers, street barkers and solicitors.
- 9-103. Application for permit.
- 9-104. Issuance or refusal of permit.
- 9-105. Appeal.
- 9-106. Loud noises and speaking devices.
- 9-107. Use of streets.
- 9-108. Exhibition of permit.
- 9-109. Policemen to enforce.
- 9-110. Revocation or suspension of permit.
- 9-111. Reapplication.
- 9-112. Expiration and renewal of permit.
- 9-113. Hours of permitted solicitation under this chapter.
- 9-101. <u>Permit required</u>. It shall be unlawful for any peddler, canvasser, solicitor, or transient merchant to ply his trade within the corporate limits without first obtaining a permit therefor in compliance with the provisions of this chapter. No permit shall be used at any time by any person other than the one to whom it is issued. (1985 Code, § 5-101)
- 9-102. <u>Restrictions on peddlers, street barkers and solicitators</u>. No peddlers, street barker, solicitor, solicitor for charitable purposes or solicitor for subscriptions shall enter in, on, upon any premises wherein a blue circular sticker or decal, supplied by the Town of Signal Mountain, is displayed. (1985 Code, § 5-102, as amended by Ord. #98-13, May 1998)

¹For privilege tax provisions, etc., see title 5 in this code. For a provision making a peddler's failure to leave a private premises upon request a trespass see section 11-801 of this code.

- 9-103. <u>Application for permit</u>. Applicant for a permit under this chapter must pay the town manager a fee of seventy-five dollars (\$75.00) and file a written application containing the following:
 - (1) Name and physical description of applicant.
- (2) 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.
- (3) A brief description of the nature of the business and the goods to be sold.
- (4) If employed, the name and address of the employer, together with credentials therefrom establishing the exact relationship.
 - (5) The length of time for which the right to do business is desired.
- (6) A statement as to whether or not 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.
- (7) 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.
- (8) Such other available evidence as will enable an investigation to evaluate the applicant's moral reputation and business responsibility. (1985 Code, § 5-103, as amended by Ord. #93-3, § 1, March 1993, as replaced by Ord. #2007-2, Jan. 2007)
- 9-104. <u>Issuance or refusal of permit</u>. (1) Each application shall be referred to the chief of police for investigation. The chief shall report his findings to the official designated by the town council within seventy-two (72) hours.
- (2) If as a result of such investigation the chief reports the applicant's moral reputation and/or business responsibility to be unsatisfactory the official designated by the town council shall notify the applicant that his application is disapproved and that no permit will be issued.
- (3) If, on the other hand, the chief's report indicates that the moral reputation and business responsibility of the applicant are satisfactory the official designated by the town council shall issue a permit upon the payment of all applicable privilege taxes. The comptroller shall keep a permanent record of all permits issued. (1985 Code, § 5-104)
- 9-105. <u>Appeal</u>. Any person aggrieved by the action of the chief of police and/or the official designated by the town council in the denial of a permit shall have the right to appeal to the town council. Such appeal shall be taken by filing with the mayor, within fourteen (14) days after notice of the action complained of, a written statement setting forth fully the grounds for the appeal. The mayor 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. The notice shall be in writing and shall be mailed, postage prepaid, to the applicant at his last known address at least five (5) days prior to the date set for hearing, or shall be delivered by a police officer in the same manner as a summons at least three (3) days prior to the date set for hearing. (1985 Code, § 5-105)

- 9-106. Loud noises and speaking devices. No permittee, nor any person in his behalf, shall shout, cry out, blow a horn, ring a bell, or use any sound amplifying device upon any of the sidewalks, streets, alleys, parks, or other public places of the town or upon private premises where sound of sufficient volume is emitted or produced therefrom to be capable of being plainly heard upon the adjacent sidewalks, streets, alleys, parks, or other public places, for the purpose of attracting attention to any goods, wares, or merchandise which such permittee proposes to sell. (1985 Code, § 5-106)
- 9-107. <u>Use of streets</u>. No permittee shall have any exclusive right to any location in the public streets, nor shall any be permitted a stationary location thereon, nor shall any be permitted to operate in a congested area where such operation might impede or inconvenience the public use of such streets. For the purpose of this chapter, the judgment of a police officer, exercised in good faith, shall be deemed conclusive as to whether the area is congested and the public impeded or inconvenienced. (1985 Code, § 5-107)
- 9-108. Exhibition of permit. Each permittee under this chapter shall wear outside their clothing a photo identification card issued by the town manager after approval of the application for a permit at all times when any solicitation occurs within the town. The photo identification shall always be worn by permittee in a visible manner to town citizens and any permittee shall exhibit and show a photo identification issued by the town manager to any police officer or citizen when requested. (1985 Code, § 5-108, as replaced by Ord. #2007-6, March 2007)
- 9-109. <u>Policemen to enforce</u>. It shall be the duty of all policemen to see that the provisions of this chapter are enforced. (1985 Code, § 5-109)
- 9-110. Revocation or suspension of permit. (1) Any permit issued under the provisions of this chapter may be revoked by the town manager subject to the opportunity for an immediate appeal with notice and an opportunity for a hearing before the town council within ten (10) days of any revocation. A permit may not be issued by the town manager if grounds for revocation exist following receipt of an application which would constitute grounds for revocation or suspension under this section. Immediate suspension and/or revocation may occur by the town manager and shall be approved by the town council for any of the following reasons:

- (a) Fraud, misrepresentation, or any untruthful statement contained in the application for permit or made in the course of carrying on the business of solicitor, canvasser, peddler, transient merchant, itinerant merchant, or itinerant vendor.
- (b) Conducting the business of peddler, canvasser, solicitor, transient merchant, itinerant merchant, or itinerant vendor in an unlawful manner without exhibiting photo identification as required by this chapter.
- (c) Conducting the business of peddler, canvasser, solicitor, transient merchant, itinerant merchant, or itinerant vendor 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.
- (d) Any other violation of this chapter shall be grounds for suspension and/or revocation.
- (2) Immediate notice of any suspension and/or proposed revocation of a permit shall be given by the town manager in writing to any permittee, setting forth the grounds of complaint and the time and place of hearing before the town council. Such notice shall be mailed to the permittee at the address provided on the application as soon as at least five (5) days prior to the date set for any hearing before the town council or it may be delivered by a police officer in the same manner as a summons at least three (3) days prior to the date set for the hearing.
- (3) The town manager may suspend any permit issued under this chapter pending the revocation hearing to be held by the town council when reasonably necessary in the public interest or after the failure of the applicant or permittee to attend any requested meeting. (1985 Code, § 5-110, as replaced by Ord. #2007-6, March 2007)
- 9-111. <u>Reapplication</u>. 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. (1985 Code, § 5-111)
- 9-112. 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 permittees who are not subject to a privilege tax shall be issued for one (1) year.

An application for a renewal shall be made substantially in the same form as an 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. (1985 Code, § 5-112)

9-113. Hours of permitted solicitation under this chapter. Any permittee under this chapter shall not be allowed to solicit for sale, enter in, or to go upon any premises of any property owner within the town except as provided in this chapter. No permittee shall be allowed to solicit for sale, enter in, or to go upon any premise which displays a blue circular sticker or decal supplied by the town. Permitted solicitation shall only occur within the town by permittees during normal business hours from 9:00 A.M. through 5:00 P.M. Monday through Friday or during the hours of 10:00 A.M. through 2:00 P.M. on Saturday. No permitted solicitation or sales may occur outside these permitted hours and a copy of this chapter shall be provided to all applicants for permits by the town manager. (as added by Ord. #2007-8, March 2007, replaced by Ord. #2010-18, Oct. 2010, and amended by Ord. #2011-4, May 2011)

SPECIAL AND LIQUIDATION SALES

- 9-201. Statutes adopted.
- 9-202. Definitions.
- 9-203. Exemptions.
- 9-204. Recorder may make regulations.
- 9-205. Violation declared nuisance; enforcement.
- 9-206. License required.
- 9-207. General duties of recorder; application for license.
- 9-208. Investigation of application; issuance of license; duration.
- 9-209. Renewal of licenses.
- 9-210. Fee to accompany application.
- 9-211. Display of licenses; books and records.
- 9-212. License suspension, revocation.
- 9-213. Contents of advertising.
- 9-214. Purchase of goods for sale hereunder.
- 9-215. Manner of listing goods on inventory.
- 9-201. <u>Statutes adopted</u>. The provisions of Section 6-55-401 to 6-55-413, both inclusive, of the <u>Tennessee Code Annotated</u> are hereby adopted by the Town of Signal Mountain, as authorized by Section 6-55-413, as herein modified, as applied to the Town of Signal Mountain, shall be as set out in this chapter. (Ord. # 91-40, May 1991)
- 9-202. <u>Definitions</u>. The following terms, wherever used or referred to in this chapter, shall have the following meaning unless a different meaning appears from the context:
- (1) "Inspector" shall mean an inspector employed by the department of finance of the town.
 - (2) "License" shall mean a license issued pursuant to this chapter.
- (3) "Licensee" shall mean any person to whom a license has been issued pursuant to this chapter.
- (4) "Publish, publishing, advertisement, advertising" shall include any and all means of every kind of conveying to the public notice of sale or notice of intention to conduct a sale, whether by word of mouth, by newspaper advertising, by magazine advertisement, by handbill, by written notice, by printed notice, by printed display, by billboard display, by poster, by radio announcement and by any and all means including oral, written or printed.
- (5) "Sale" shall mean the sale of or any offer to sell to the public goods, wares, and merchandise of any and all kinds and descriptions on hand and in stock in connection with a declared purpose, as set forth by advertising, on the

part of the seller that such sale if anticipatory to the termination, closing, liquidation, revision, windup, discontinuance, conclusion, or abandonment of the business in connection with such sale. It shall also include any sale advertised to be a "fire sale," "adjustment sale," "creditor's sale," "liquidation sale," "reorganization sale," "insurance salvage sale," "insolvent sale," "adjuster's sale," "loss-of-lease sale," "wholesaler's closeout sale," "creditor's committee sale," "forced-out-of-business sale," "removal sale," and any and all sales advertised in such manner as to reasonably convey to the public that upon disposal of the stock of goods on hand the business will cease and be discontinued.

- (6) "Recorder" shall mean the recorder of the town. (Ord. #91-40, May 1991)
- 9-203. <u>Exemptions</u>. The provisions of this chapter shall not apply to or affect the following persons:
- (1) Persons acting pursuant to an order of process of a court of competent jurisdiction;
- (2) Persons acting in accordance with their powers and duties as public officers, such as sheriffs and marshals;
- (3) Duly licensed auctioneers, selling at auction. (Ord. # 91-40, May 1991)
- 9-204. Recorder may make regulations. The recorder is further empowered to make such rules and regulations for the conduct and advertisement of such sale or special sale as in his opinion will serve to prevent deception and to protect the public. (Ord. # 91-40, May 1991)
- 9-205. Violation declared nuisance; enforcement. To conduct any sale herein defined without obtaining the license required by this chapter or to violate any other provisions of this chapter is hereby declared to be a misdemeanor and a public nuisance, and, for the purpose of the enforcement of this chapter, the recorder is hereby authorized fully to exercise all powers of collection, as authorized to be extended and granted to county court clerks or municipal officers, or collectors by and in as full a manner as provided by the Tennessee Code Annotated. In addition to the other requirements providing for the collection of the license fee herein imposed and for the enforcement of this chapter, the recorder is authorized to certify to the town attorney the failure of any person to obtain a license as herein required and to pay the fee therefor or the violation of any other provisions hereof. Thereupon, the town attorney shall forthwith file a bill in a court of proper jurisdiction to enjoin such person from continuing to conduct said sale, which injunction shall remain in forms so long as such person is in default. Upon the payment of such a license fee as may be due, and upon compliance with the other provisions of this chapter, the town attorney shall be authorized to dismiss said bill upon the payment of costs by

the defendant and all expenses incurred with the institution of said suit. (Ord. # 91-40, May 1991)

- 9-206. <u>License required</u>. No person shall hereafter publish or conduct any sale of the type defined herein without a license therefor. (Ord. # 91-40, May 1991)
- 9-207. General duties of recorder; application for license. The recorder is hereby authorized and empowered to supervise and regulate sales or special sales defined herein and to issue appropriate licenses or license, therefor. Such licenses or license shall be issued in the discretion of the recorder upon written application in a form approved by the recorder and verified by the person who, or by an officer of the corporation which, intends to conduct such sale. Such application shall contain a description of the place where such sale is to be held, the nature of the occupancy, whether by lease or sublease and the effective date of the termination of such occupancy, the means to be employed in publishing such sale. Such application shall further contain, as part thereof, an itemized list of the goods, wares, and merchandise to be offered for sale, the place where such stock was purchased or acquired, and if not purchased, the manner of such acquisition. Such application shall contain any additional information as the recorder may require. (Ord. # 91-40, May 1991)
- 9-208. <u>Investigation of application</u>; issuance of license; duration. Upon receipt of such application and payment of the fee hereinafter prescribed, the recorder shall cause the same to be examined and investigated. If after such investigation the recorder is satisfied as to the truth of the statements contained in such application and as to the form and content of the advertising to be used in connection with such sale, he may then issue a license permitting the publication and conduct of such sale. Such license shall be for a period of not exceeding thirty (30) days. (Ord. # 91-40, May 1991)
- 9-209. Renewal of licenses. Upon satisfactory proof by the licensee that the stock itemized in the original application has not been disposed of, the recorder may renew such license for an additional thirty (30) day period upon payment of the prescribed renewal fee. Such proof for a renewal license shall be furnished in a form to be issued by the recorder. Said renewal application shall contain an itemized list of stock on hand and the same shall be verified by the applicant. The recorder shall cause the same to be examined and investigated, and if satisfied as to the truth of the statements therein contained, the recorder may issue a renewal license for a period not exceeding thirty (30) days, provided, however, that not more than three (3) such renewals shall be granted for any such sale for the same location within a period of one year from date of the issuance of the first license. (Ord. # 91-40, May 1991)

- 9-210. <u>Fee to accompany application</u>. Upon filing an original application or a renewal application for a license to advertise and conduct a sale or special sale, as hereinbefore defined, the applicant shall pay to the recorder a fee in the sum of fifty dollars (\$50.00). If any application or renewal application is disapproved, said payment shall be forfeited to the recorder as and for the cost of investigating the statements contained in such application or renewal application. (Ord. # 91-40, May 1991)
- 9-211. <u>Display of licenses; books and records</u>. Upon commencement of any sale, as hereinbefore defined, the license issued by the recorder shall be prominently displayed near the entrance of the premises. A duplicate of the original application and stock list pursuant to which license was issued, shall at all times be available to the recorder or to inspectors, and the licensee shall permit such inspectors to examine all merchandise in the premises for comparison with such stock list. Suitable books and records as prescribed by the recorder shall be kept by the licensee and shall be at all times available to the inspectors. At the close of business day the stock list attached to the application shall be revised and those items disposed of during such day shall be marked thereon. (Ord. # 91-40, May 1991)
- 9-212. <u>License suspension, revocation</u>. The recorder shall have power to suspend or revoke at any time any license granted in accordance with this chapter. (Ord. # 91-40, May 1991)
- 9-213. <u>Contents of advertising</u>. All advertisements or advertising and the language contained therein shall be in accordance with the purpose of the sale as stated in the application pursuant to which a license was issued and the wording of such advertisements shall not vary from the wording as indicated in the application. Such advertising shall contain a statement in these words and no others:

"Sale held pursuant to Permit No.	of Depa	rtment
of Finance of the Town of Signal N	Mountain, granted	on the
day of	, 19	''
and in such blank spaces shall be indicated the p	permit number and	d the requisite
date. (Ord. # 91-40, May 1991)		

9-214. Purchase of goods for sale hereunder. In order to carry out the purposes of this chapter, it shall be unlawful for the applicant to add, or permit to be added to, or included in the itemized list of goods, wares, or merchandise to be offered for sale as required herein, goods ordered in contemplation of conducting a sale regulated hereunder and any unusual order, purchase or addition to the stock of goods of the business hereby affected within thirty (30) days before the filing of such an itemized list of goods shall be deemed to be prima facie evidence intent to violate this provision. (Ord. # 91-40, May 1991)

9-215. Manner of listing goods on inventory. To further carry out the purpose of this chapter, the itemized list of goods, wares, and merchandise to be sold, which is required to be filed along with the application for a license or a renewal thereof, as provided herein, shall be sufficient if such goods, wares, or merchandise are listed with their total retail value in dollars by departments or categories, or if listed separately with their individual retail value hereon. (Ord. # 91-40, May 1991)

SHORT-TERM VACATIOIN RENTALS

SECTION

- 9-301. Definitions.
- 9-302. Minimum standards for short-term vacation rentals.
- 9-303. Permit application process.
- 9-304. Permit renewal.
- 9-305. Permit revocation.
- 9-306. Failure to obtain permit.
- 9.307. Short-term vacation rentals and private agreements.
- 9-301. <u>Definitions</u>. The following terms, wherever used or referred to in this chapter, shall have the following meaning:

"Short-term vacation rental" shall mean any house or structure advertised or held out to the public as a place where guest rooms are supplied for compensation and such accommodations are provided on a weekly or daily basis for no more than thirty (30) days. This definition does not include bed and breakfast establishments, hotels, motels, or any dwelling units rented or leased for more than thirty (30) days. (as added by Ord. #2019-08, June 2019 *Ch19_8-26-19*)

- 9-302. <u>Minimum standards for short-term vacation rentals</u>. The following shall be considered the minimum standards for any dwelling used as a short-term vacation rental.
- (1) The proprietor/operator of any house or structure used as a short-term vacation rental must be a full-time resident of the short-term vacation rental property and continue to reside on the property throughout all guest stays.
- (2) No on- or off-site signage shall be permitted at any short-term vacation rental.
- (3) No more than eight (8) guests may utilize a short-term vacation rental at any given time. This count does not include the short-term vacation rental proprietor or any other permanent residents on the property being used as short-term vacation rental.
- (4) No short-term vacation rental shall be permitted to be rented for a period of less than twenty-four (24) hours.
- (5) No short-term vacation rental shall be permitted to be rented for a period of greater than thirty (30) days.
- (6) Adequate on-site parking shall be provided, as determined by town staff after considering proposed number of guests, frequency of operations, and availability of on-street parking. As a general rule, parking shall not be allowed

on any vegetated area of the premises on which the short-term vacation rental is located.

- (7) The proprietor of a short-term vacation rental shall be responsible for collecting and remitting all applicable room, occupancy, and sales taxes required by state and local law.
- (8) All short-term vacation rental proprietors and guests must abide by all noise restrictions and other applicable local laws of the Town of Signal Mountain.
- (9) A short-term vacation rental may include a primary dwelling unit and/or a secondary dwelling unit, but shall not include uninhabitable structures such as garages, barns or sheds.
- (10) All dwelling units shall have functioning smoke detectors as determined by the fire marshal and other life safety equipment as required by local, state, and federal law.
- (11) All dwelling units shall meet all applicable laws related to zoning, building, health or life safety. (as added by Ord. #2019-08, June 2019 Ch19 8-26-19)
- 9-303. <u>Permit application process</u>. No individual or entity shall operate a short-term vacation rental in the Town of Signal Mountain without first obtaining a short-term vacation rental permit. Applications for such permits will be made available at town hall during normal operating hours.
- (1) <u>Business license required</u>. Prior to submitting a short-term vacation rental permit application, the short-term vacation rental operator must obtain a business license in accordance with title 9, chapter 1 of the Signal Mountain Code of Ordinances.
- (2) <u>Application requirements</u>. The following must be included in the application for a short-term vacation rental permit:
 - (a) The name, address, telephone number, and email address of the short-term vacation rental and operator.
 - (b) The business license number.
 - (c) Documentation that the applicant is the owner of the property proposed to be used as a short-term vacation rental.
 - (d) A short narrative describing the area and number of rooms to be rented, the maximum number of allowed guests, guest parking location, and the proposed days of operation (all year, only weekends, etc.).
 - (e) Proof of insurance on the house or structure to be used as a short-term vacation rental.
 - (f) Proof the short-term vacation rental proprietor is up to date on all applicable tax payments. If the permit is being renewed, such proof shall include proof of payment of state occupancy taxes.

- (g) Proof of written notice of the short-term vacation rental permit application via certified mail to all property owners within a one hundred foot (100') radius of the subject property boundary line.
- (h) Proof of owner residency at the subject property for owner-occupied short-term vacation rental properties.
- (i) Proof of non-conforming status per <u>Tennessee Code</u> <u>Annotated</u>, § 13-7-602 for existing short-term vacation rental properties operating before the effective date of this chapter.
- (3) <u>Application review</u>. Upon receiving an application for a short-term vacation rental permit, town staff shall review the application and provide comment. If deemed necessary, town staff is permitted to inspect the premises to ensure compliance with state and local laws.

If the application and site meet all the requirements set out in this chapter and the Signal Mountain Zoning Ordinance, town staff may issue a short-term vacation rental permit. (as added by Ord. #2019-08, June 2019 *Ch19_8-26-19*)

9-304. <u>Permit renewal</u>. All short-term vacation rental permits must be renewed annually. An application for a permit renewal shall contain the same items outlined in § 9-303 with the exception of items (d), (g) and (i).

The short-term vacation rental permit is non-transferable to another property or owner. (as added by Ord. #2019-08, June 2019 *Ch19_8-26-19*)

9-305. <u>Permit revocation and suspension</u>. The town manager or a designee reserves the right to revoke any short-term vacation rental permit at any time when there is a risk from existing conditions to public health and safety or if there is any violation or failure to comply with the provisions of this chapter after a permit has been properly issued.

The town manager or a designee reserves the right to temporarily suspend any short-term vacation rental permit in the case of any local code violations that pose an immediate threat to public health and safety.

Notice that a short-term rental unit permit has been revoked shall be submitted to the short-term vacation rental operator in writing and shall include the right of the operator to appeal the revocation to town council within sixty (60) days of the permit's revocation.

A short-term vacation rental permit that has been revoked shall prevent the permit holder and the specific property from applying for a new short-term vacation rental permit for a period of one (1) year from the date of revocation. This provision shall not apply if the permit revocation is successfully appealed to town council. (as added by Ord. #2019-08, June 2019 *Ch19 8-26-19*)

9-306. <u>Failure to obtain permit or operating under suspended permit</u>. Use of any property as a short-term vacation rental prior to obtaining a short-term vacation rental permit or during a period of permit suspension shall

be punishable by a fine of up to five hundred dollars (\$500.00) per violation. Each day the violation continues shall be considered a separate offense. This section does not apply to short-term vacation rentals operating in accordance with <u>Tennessee Code Annotated</u>, §§ 13-7-601 through 13-7-606. (as added by Ord. #2019-08, June 2019 *Ch19_8-26-19*)

9-307. <u>Short-term vacation rentals and private agreements</u>. Nothing in this chapter prohibits a homeowner's association, condominium, or similar entity from prohibiting or restricting property owners from using their property as a short-term vacation rental.

In addition, nothing in this chapter prohibits any property owner from placing a restrictive covenant or easement on their property prohibiting or restricting its use as a short-term vacation rental. (as added by Ord. #2019-08, June 2019 $\it Ch19 \, 8-26-19$)

TITLE 10

ANIMAL CONTROL

CHAPTER

- 1. IN GENERAL.
- 2. DOGS AND CATS.

CHAPTER 1

IN GENERAL

- 10-101. Town declared to be a bird sanctuary; unlawful to kill birds.
- 10-102. Keeping chickens and other fowl within the town.
- 10-103. Keeping livestock in the town.
- 10-104. Livestock running at large prohibited.
- 10-105. Disposal of dead animals.
- 10-106. Prohibiting housing animals in the front yard of residences.
 - 10-101. Town declared to be a bird sanctuary; unlawful to kill birds.
- (1) The entire area within the town is hereby declared to be a bird sanctuary.
- (2) It shall be unlawful for any person to kill a bird of any kind or description within the town. (1985 Code, § 3-101)
- 10-102. <u>Keeping chickens and other fowl within the town</u>. (1) It shall be unlawful for any person to keep ducks, geese, or other fowl in the town. It shall be unlawful for any person to keep chickens in the town, except by special permit issued by the town manager as provided in this section.
- of domesticated chickens within the town only where an appropriate permit has been obtained from the town manager. This section is intended to enable town residents to keep a small number of female chickens on a non-commercial basis and to limit potential adverse impacts on surrounding property owners and neighborhood. It is understood that potential adverse impacts may result to adjoining property owners and the neighborhood from the keeping of domesticated chickens due to noise, odor, unsanitary animal living conditions, unsanitary waste storage and/or removal, attraction of predators, rodents, insects, or parasites, and unconfined animals leaving the owner's property. This section is intended to create licensing standards and requirements within the town on a trial basis to protect property values of adjoining properties and the neighborhood surrounding the property on which any chickens are kept within the town.

- (3) No permit shall be issued for any person to keep chickens within the town unless all of the following required standards are met and complied with by the permittee during any period that a permit is issued by the town manager:
 - (a) No more than eight (8) hens shall be allowed for each single family dwelling. No birds shall be allowed in any commercial, office, or multi-family residential district, including duplexes.
 - (b) No roosters shall be allowed within the town.
 - (c) There shall be no outside slaughtering of birds in the town.
 - (d) Any chickens must be kept in a secure enclosure at all times (not visible from the street) which has been approved by the town manager or designee. The size of any outside enclosure shall be a minimum of ten (10) square feet and the outside enclosure shall be set back at least twenty-five feet (25') from any adjoining property line and at least fifty feet (50') from any stream. Variances for proper property line set backs may be obtained upon approval from the planning commission. The planning commission shall accept any variance for a property line set back less than twenty-five feet (25') as long as the adjoining property owner submits a letter of support. Upon change of ownership of the adjoining property, the variance will become null and the applicant will have thirty (30) days to bring a letter of support from the new property owner to the planning commission with a request for a new variance. The enclosure must provide adequate ventilation and adequate sun and shade and must both be impermeable to rodents, wild birds, and predators, including dogs and cats. The enclosure shall provide a minimum of two (2) square feet space inside for each bird.
 - (e) The enclosure shall be approved by the town manager or designee before any use occurs and shall be designed to provide safe and healthy living conditions for the chickens while minimizing adverse impacts to other residents in the neighborhood. The enclosure shall be enclosed with wire or screen on all sides and shall have a roof and doors. Access doors shall be shut and locked at night.
 - (i) Opening windows and vents shall be covered with predator and bird-proof wire of less than one inch (1") openings.
 - (ii) The materials used in making the enclosure shall be uniform for each element of the structure within the town such that the walls are made of the same material, the roof has the same shingles or other covering, and any windows or openings are constructed using the same materials. The use of scrap, waste board, sheet metal, or similar materials to construct the enclosure is prohibited. The enclosure shall be well-maintained.
 - (iii) The enclosure shall be placed in the rear yard in a location where it is uniform and in harmony with other structures on the lot and is not visible from the street.

- (iv) Enclosures shall only be located in rear yards. For a corner lot or other property where no rear yard exists, a side yard may be used as long as the setbacks generally applicable in the zoning district are met and sight obscuring fencing is constructed. No enclosure may be placed in front yards in the town.
- (g) Enclosures must be kept in a neat and sanitary condition at all times and must be cleaned and/or moved to a different approved location on the lot on a regular basis to prevent offensive odors.
- (h) Chicken feed must be kept in a rodent-proof container which is approved by the town manager and all chickens shall be humanely treated.
- (i) Prior to purchasing any chickens pursuant to this section, any person within the town must obtain a permit from the town manager or his designee and an inspection shall be conducted of any proposed facility for housing chickens in accordance with this section. There shall be a permit fee of thirty-five dollars (\$35.00) for any person desiring to keep chickens within the town.
- (j) The town manager or designee shall deny a permit to keep domesticated chickens within the town if the applicant has not complied with all provisions of this section. A permit to keep domesticated chickens may be suspended or revoked by the town manager at any time when there is a risk from existing conditions to public health or safety and if there is any violation or failure to comply with the provisions of this section after a permit has been properly issued. Any denial, revocation or suspension of a permit to keep domesticated chickens shall be in writing and shall include notification of the right to appeal to the Signal Mountain Town Council within ten (10) days of the denial, revocation or suspension by the permit holder.
- (k) Any landowner who has requested any permit for keeping chickens as allowed by this section since February 28, 2009 shall be considered a legal use within the town in compliance with this section. (1985 Code, § 3-102, as replaced by Ord. #2009-3, March 2009, amended by Ord. #2009-9, June 2009, replaced by Ord. #2010-6, April 2010, and amended by Ord. #2019-10, June 2018 *Ch19_8-26-19*)
- 10-103. <u>Keeping livestock in the town</u>. Except as provided hereafter, it shall be unlawful for any person to keep swine, goats, sheep or other livestock within the town.
- (1) <u>Large livestock animals</u>. For the purpose of this section, "large livestock animals" is limited to equines and goats. Large livestock animals may be kept in the part of the town zoned "Residential Estate District" under the following conditions.
 - (a) All livestock and any products produced therefrom shall be for private use only; no commercial operations permitted.

- (b) Prior to the location of any livestock on a property any person must obtain a permit from the town manager or their designee, and an inspection will be conducted to ensure permittees are in compliance with this section. There shall be a permit fee of thirty-five dollars (\$35.00) and an annual renewal fee of fifteen dollars (\$15.00) for follow up inspections and the monitoring of complaints. The permit may be suspended or revoked by the town manager at any time when there is a risk from existing conditions to public health or safety and if there is any violation or failure to comply with the provisions of this section after a permit has been properly issued. Before any permit may be issued, the permittee must comply with the regulations outlined in this section. The regulations in this section shall not apply to the keeping of chickens.
- (c) The minimum lot size required for keeping large livestock is three (3) acres. On a three (3) acre lot, two (2) animals are allowed. For additional livestock, the following is required:
 - (i) For livestock that will on average weigh up to four hundred (400) pounds at maturity, one (1) additional animal is allowed for each additional one half (1/2) acre of land.
 - (ii) For livestock that will on average weigh more than four hundred (400) pounds at maturity, one (1) additional animal is allowed for each additional acre of land.
- (d) The following shall apply to placement of any private stable or other structure used to house livestock:
 - (i) Front setback: sixty feet (60').
 - (ii) Side setbacks: twenty-five feet (25').
 - (iii) Rear setback: fifty feet (50').
 - (iv) Stream setback: fifty feet (50').
 - (v) Per § 10-106 of the town code, no livestock may be housed in the front yard of any residence.
- (e) All livestock allowed under this section shall be fenced or otherwise restricted from access to adjoining properties or rights-of-way.
- (f) Livestock or the keeping thereof shall not create a nuisance. For the purposes of this section "nuisance" shall include but not be limited to:
 - (i) Animal found at large or astray.
 - (ii) Animal damages the property of anyone other than its owner.
 - (iii) Animal excessively making disturbing noises.
 - (iv) Animal causing fouling of the air by odor and thereby creating unreasonable annoyance or discomfort to neighbors or others in close proximity to the premise where the animal is kept or harbored.
 - (v) Unsanitary conditions in enclosures or surroundings where animals are kept or harbored.

- (g) Any person wishing to keep livestock other than goats or equines may seek approval from the board of zoning appeals. If the board of zoning appeals grants approval and all other requirements of this section are met, a permit may be issued.
- (2) <u>Small livestock animals</u>. For the purpose of this section, "small livestock animals" is limited to miniature, dwarf or pygmy breed goats that generally do not exceed a height of thirty inches (30") (at highest point of withers) and weigh no more than ninety (90) pounds at maturity. Small livestock animals may be kept on single family residential properties under the following conditions.
 - (a) All livestock and any products produced therefrom shall be for private use only; no commercial operations permitted.
 - (b) Prior to the location of any livestock on a property any person must obtain a permit from the town manager or their designee, and an inspection will be conducted to ensure permittees are in compliance with this section. There shall be a permit fee of thirty-five dollars (\$35.00) and an annual renewal fee of fifteen dollars (\$15.00) for follow up inspections and the monitoring of complaints. The permit may be suspended or revoked by the town manager at any time when there is a risk from existing conditions to public health or safety and if there is any violation or failure to comply with the provisions of this section after a permit has been properly issued. Before any permit may be issued, the permittee must comply with the regulations outlined in this section. The regulations in this section shall not apply to the keeping of chickens.
 - (c) The minimum lot size for keeping small livestock animals is two (2) acres.
 - (d) A minimum of two (2) animals must be kept. On a two (2) acre lot, two (2) small livestock animals may be kept. One (1) additional animal is allowed for each additional one half (1/2) acre of land above two (2) acres.
 - (e) All livestock allowed under this section shall be fenced or otherwise restricted from access to adjoining properties or rights-of-way. Outdoor enclosures shall be a minimum of five hundred (500) square feet or two hundred (200) square feet per animal, whichever is greater.
 - (f) All animals must be dehorned/disbudded.
 - (g) All male animals must be neutered.
 - (h) Structures used to house small livestock animals must be designed to:
 - (i) Provide dry shelter, free of excess drafts and other environmental encroachments.
 - (ii) Be predator proof.
 - (iii) Be easily accessed and cleaned.

- (iv) Provide a minimum of fifteen (15) square feet of interior space or five (5) square feet per animal, whichever is greater.
- (i) The following shall apply to placement of any structure used to house livestock:
 - (i) Front setback: sixty feet (60').
 - (ii) Side setbacks: twenty-five feet (25').
 - (iii) Rear setback: fifty feet (50').
 - (iv) Stream setback: fifty feet (50').
 - (v) Per § 10-106 of the town code, no livestock may be housed in the front yard of any residence.
- (j) Livestock or the keeping thereof shall not create a nuisance. For the purposes of this section "nuisance" shall include but not be limited to:
 - (i) Animal found at large or astray.
 - (ii) Animal damages the property of anyone other than its owner.
 - (iii) Animal excessively making disturbing noises.
 - (iv) Animal causing fouling of the air by odor and thereby creating unreasonable annoyance or discomfort to neighbors or others in close proximity to the premise where the animal is kept or harbored.
 - (v) Unsanitary conditions in enclosures or surroundings where animals are kept or harbored
- (k) The ordinance creating this section, § 10-103(2), shall be effective for one (1) year from the date of its enactment to allow consideration of the use of small livestock animals within the Town of Signal Mountain on a trial basis. There shall be a sunset on the keeping of small livestock animals within the town on November 12, 2019 unless this section is approved to be extended by the town council prior that time. If the town council declines extension of this ordinance, the keeping of small livestock animals as allowed by this section shall not be considered a legal nonconforming use within the town thereafter, unless approved by separate action of the town council. (1985 Code, § 3-103, as replaced by Ord. #96-1, § 1, Feb. 1996, and Ord. #2019-06 April 2019 *Ch19_8-26-19*)
- 10-104. <u>Livestock running at large prohibited</u>. It shall be unlawful for any person owning any livestock to permit or suffer the livestock to run at large in the town. Any livestock running at large in the town shall be subject to impoundment by a person duly qualified and appointed by the town council for that purpose and may be recovered by the owner on payment of expenses incurred by the town for impounding.

Unclaimed animals may be disposed of as the Humane Educational Society may direct. Dangerous or diseased animals may be impounded and destroyed by the Humane Educational Society. (1985 Code, § 3-104, as replaced by Ord. #96-1, § 2, Feb. 1996; and further replaced by Ord. #96-5, § 1, June 1996)

- 10-105. <u>Disposal of dead animals</u>. (1) When any animal dies, the owner or person in possession of it shall, within twelve (12) hours thereafter, cause the carcass to be removed and buried, burned or so disposed of that it shall not become a nuisance.
- (2) The carcasses of animals which have been destroyed knowing to being infected with any form of contagious disease, shall be completely burned or buried to the satisfaction of the health officer by the owner or person in possession thereof so as to prevent the possibility of other animals becoming infected. (1985 Code, § 3-105)
- 10-106. Prohibiting housing animals in the front yard of residences. Housing of any type of animal in the front yard of residences is prohibited, including animal cages with or without the animals in them. Front yards are defined as the portion of the yard from the forward most front part of the residential structure to the street. This does not apply to small bird houses. (As added by Ord. #2000-3, Feb. 2000)

DOGS AND CATS

- 10-201. Keeping or harboring cat or dog considered ownership thereof.
- 10-202. Dogs and cats required to be inoculated against rabies.
- 10-203. Dogs required to wear tags; dogs without tags to be impounded.
- 10-204. Allowing dogs and cats to create a nuisance prohibited; disposition of dogs and cats creating a nuisance.
- 10-205. Seizure of dangerous dogs and cats.
- 10-206. [Deleted.]
- 10-207. Disposition of impounded dogs and cats.
- 10-208. Female dogs in season to be confined.
- 10-209. Vicious dog.
- 10-210. Removal.
- 10-211. Enforcement.
- 10-212. Violations.
- 10-201. <u>Keeping or harboring cat or dog considered ownership thereof</u>. If any dog or cat is found on the premises of any person for a period of five (5) or more days such fact shall be prima facie evidence that the dog or cat belongs to the occupant of such premises, and any person keeping or harboring a dog or cat for five (5) consecutive days shall, for the purpose of this chapter, be declared to be the owner and liable for any violations of this chapter. (1985 Code, § 3-201, as replaced by Ord. #2010-15, Oct. 2010 and Ord. #2020-01, Feb. 2020 *Ch20 06-28-21*)
- 10-202. Dogs and cats required to be inoculated against rabies. Whoever owns, keeps, or harbors any dog or cat within the corporate limits of the town shall have such dog or cat properly inoculated or immunized against rabies and remain current on rabies vaccination in accordance with county and state law; provided, however, that any dogs and cats need not be inoculated before they reach the age of three (3) months. The record of inoculation or re-inoculation shall be subject to inspection by a person appointed by the town council, and the owner or keeper of the dog or cat shall secure an approved tag that shall contain thereof the year of inoculation and a number which shall correspond with the number on the record kept by person inoculating or re-inoculating such dog or cat. (1985 Code, § 3-202, as replaced by Ord. #94-2, § 1, March 1994, Ord. #2010-15, Oct. 2010, and Ord. #2020-01, Feb. 2020 *Ch20 06-28-21*)
- 10-203. <u>Dogs required to wear tags; dogs without tags to be impounded</u>. It shall be unlawful for any person to own, keep or harbor any dog which does not wear a tag evidencing the vaccination required by this chapter. Animals

found without a tag shall be impounded by persons duly qualified and appointed by the town council for that purpose and may be recovered by the owner on payment of the fee set by the entity the town council has designated to enforce animal control.

Unclaimed animals may be disposed of after seven (7) days' notice to the owner, if ownership can be determined, in such manner as the town council or the designee to enforce animal control may direct. Dangerous or diseased animals may be impounded and destroyed after seven (7) days' notice to the owner, if ownership can be determined, in such manner as the entity the town council has designated to enforce animal control may direct.

No person shall bring a dog into the town for sale, exchange or giving away unless such dog has been inoculated by a veterinarian of the state in which the owner lives or by some person authorized to make vaccinations and the owner of such dog or cat in his possession of certificate of the person making the vaccination or inoculation; unless such dog is kept confined or on a leash. (Ord. of Dec. 12, 1988, as replaced by Ord. #94-2, § 2, March 1994, Ord. #2010-15, Oct. 2010, and Ord. #2020-01, Feb. 2020 *Ch20_06-28-21*)

- 10-204. Allowing dogs and cats to create a nuisance prohibited; disposition of dogs and cats creating a nuisance. (1) It shall be unlawful for any person to allow any dog or cat owned or under such person's control to create a nuisance. Any dog or cat found creating a nuisance in violation of this chapter, any dog or cat required to be inoculated or immunized against rabies and found to be not inoculated or immunized against rabies, and any dog or cat affected by rabies or reasonably suspected by a veterinarian or the entity designated by the town council to enforce animal control of being affected by rabies, is declared to be a public nuisance animal and the person owning or in control of such animal is liable to pay any costs of impoundment of such animal by the entity the town council has designated to enforce animal control.
- (2) The term "public nuisance animal" shall mean, but not be limited to, any dog or cat or other domestic animal that on one (1) or more occasion commits any of the following acts of nuisance in the town:
 - (a) Is found at large:
 - (b) Damages the property of anyone other than its owner;
 - (c) Molests or intimidates pedestrians or passersby;
 - (d) Chases vehicles:
 - (e) Excessively makes disturbing noises;
 - (f) Causes fouling of the air by odor and thereby creates unreasonable annoyance or discomfort to neighbors or others in close proximity to the premises where the animal is kept or harbored; or
 - (g) Causes unsanitary conditions in enclosures or surroundings where the animal is kept or harbored.
- (3) No dog may run at large or astray on the premises of another or upon any public street or sidewalk or other public property in the town unless

such dog is on a leash and attended by the owner or his representative on a leash or other physical confinement.

- (4) Any animal running at large committing an act of nuisance as above defined shall be subject to impoundment by the entity the town council has designated to enforce animal control or other person appointed by the town council, and any costs associated with such impoundment may be recovered from its owner, or such animal may be disposed of as provided in § 10-207.
- (5) If a dog or cat commits one of the above acts of nuisance, in lieu of picking up the dog or cat and impounding it, the owner or person having control of the dog or cat may be cited to court, and if found guilty, the owner or person having control of the dog or cat shall be fined according to the general penalty provision of this code of ordinances.
- (6) If a person is found guilty of allowing any dog or cat to commit a nuisance offense as defined in subsection (2) above, then such person may be required to confine the dog or cat and never permit it to run at large in the town again. If it is again found committing a nuisance, the town judge may order such person to remove the dog or cat from the town, or it may be disposed of as directed by the entity the town council has designated to enforce animal control. (1985 Code, § 3-204, as amended by Ord. # 90-6, and # 90-7, and replaced by Ord. #2010-15, Oct. 2010 and Ord. #2020-01, Feb. 2020 *Ch20_06-28-21*)
- 10-205. <u>Seizure of dangerous dogs and cats</u>. The entity the town council has designated to enforce animal control, police or other designated person shall seize and impound any dog or cat under the following circumstances:
- (1) If the dog or cat is rabid, or the entity the town council has designated to enforce animal control, or other designated person, has reasonable cause to suspect the dog or cat to be rabid;
- (2) If the dog or cat has been bitten by another dog or cat which is under suspicion of being rabid;
 - (3) The dog or cat is behaving viciously or out of control; or
- (4) If in the attempt to seize any dog or cat, it is impossible or impractical to secure it safely with the hands, the entity the town council has designated to enforce animal control or other designated person may apprehend the dog or cat by use of a tranquilizer gun (or other similar device not intended to kill or main the dog or cat). If such method of apprehension fails or is impractical, and a representative of the town is convinced that public welfare and safety demand prompt and drastic action, he may destroy the animal by shooting it; provided he is close enough to the animal to kill it humanely and in a manner that no human life may be imperiled by his action. (1985 Code, § 3-205, as replaced by Ord. #2010-15, Oct. 2010, and Ord. #2020-01, Feb. 2020 *Ch20_06-28-21*)

10-206. [Deleted.] (1985 Code, § 3-206, as deleted by Ord. #2010-15, Oct. 2010, and Ord. #2020-01, Feb. 2020 *Ch20_06-28-21*)

- 10-207. <u>Disposition of impounded dogs and cats</u>. Dogs and cats impounded under the provisions of this chapter shall be disposed of as follows:
- (1) Any dog or cat impounded in violation of this chapter shall be kept for a period established by <u>Tennessee Code Annotated</u>, §§ 39-14-207 or 39-14-210 after notice actually served upon the owner and after all reasonable attempts to notify the owner; and if such dog or cat is not redeemed within such period, it may be humanely destroyed or otherwise disposed of as the entity the town council has designated may direct pursuant to Tennessee law.
- (2) The owner of any dog or cat may claim and redeem it by paying the person designated by the town council an impoundment fee set by the entity the town council has designated to enforce animal control.
- Every dog or cat which has bitten a human or has been exposed to rabies or which is suspected of having rabies shall be impounded for a period of ten (10) days or more by the entity the town council has designated to enforce animal control, or, at the option of the owner of such dog or cat, shall be detained in a reputable veterinary hospital on condition that such owner shall make arrangements with such veterinary hospital and shall be liable for the charges while such dog or cat is confined therein. During such confinement, the dog or cat shall be under the observation and supervision of the Hamilton County Director of Public Health, and it shall be released or humanely destroyed by the poundkeeper after the termination of the observation period according to the instructions from the director of public health. The director of public health may order the poundkeeper to destroy such dog or cat at any time during the period of observation of evidence as such as to convince the director that the dog or cat has rabies. During the period of observation, the owner of such dog or cat shall be liable for reasonable board fees, if such dog or cat is confined at the pound. (1985 Code, § 3-207, as amended by Ord. #94-2, § 4, March 1994, and replaced by Ord. #2010-15, Oct. 2010, and Ord. #2020-01, Feb. 2020 **Ch20_06-28-21**)
- 10-208. <u>Female dogs in season to be confined</u>. Every owner of a female dog in season is required to confine the same in such manner as not to attract other dogs for twenty-four (24) days during the time that she is in season. (1985 Code, § 3-208, and replaced by Ord. #2010-15, Oct. 2010, and Ord. #2020-01, Feb. 2020 *Ch20_06-28-21*)
- 10-209. <u>Vicious dog</u>. (1) For the purpose of this section, "vicious dog" means:
 - (a) Any dog which has bitten a human being or domestic animal one (1) or more times without provocation;
 - (b) Any dog that is reported and confirmed by an investigating authority to have a history, tendency or disposition to attack, to cause

injury or to otherwise endanger the safety of human beings or domestic animals;

- (c) Any dog that has been trained for dog fighting, animal fighting or animal baiting, or is owned or kept for such purposes; or
- (d) Any dog trained to attack human beings, upon command or spontaneously in response to human activities except dogs owned by and under the control of the police department, a law enforcement agency of the State of Tennessee or the United States or a branch of the armed forces of the United States or a dog previously owned and retired from any of the preceding agencies which is owned by a trained handler.
- (2) The town manager or designee, in his or her discretion or upon receipt of a complaint alleging that a particular dog is a vicious dog as defined herein, may direct an investigation be conducted by the Signal Mountain Police Department. Upon completion of that investigation, a report will be delivered to the chief of police or designee.

If the chief of police or designee determines such dog to be a vicious dog, the vicious dog's owner shall be notified by certified mail, return receipt requested, or personal delivery with a witness. Such notice shall require the owner of the vicious dog to immediately comply with subsection (3)(d) below or, within twenty-four (24) hours, deliver the vicious dog to the Hamilton County Humane Education Society (HES) or other entity that the town has contracted to provide this service, where the vicious dog will be kept at the owner's expense until the first of the following takes place:

- (a) The owner of the vicious dog completes the application to register the vicious dog;
- (b) The administrative procedure outlined in subsection (4) below is resolved; or
- (c) The dog is removed from the town permanently. If the owner fails to deliver the vicious dog to the pound, the town manager or designee shall confiscate the vicious dog and take it to the pound.
- (3) A person who harbors or keeps a vicious dog within the limits of the Town of Signal Mountain must register the vicious dog by submitting an application to the Town of Signal Mountain.
 - (a) An application to register a vicious dog must:
 - (i) Provide the name, address, email address and phone number of the owner of the vicious dog and any person who keeps the vicious dog, if it is not kept by the owner more than fifty (50) weeks out of any given year;
 - (ii) Include the fifty dollar (\$50.00) initial registration fee;
 - (iii) Provide the name, birth year and breed of the vicious dog;
 - (iv) Be accompanied by a certificate of insurance issued by an insurance company licensed to do business in this state, providing personal liability insurance coverage as in a

homeowner's policy, with a minimum liability amount of three hundred thousand dollars (\$300,000.00) for the injury or death of any person, for damage to property, possessions and/or animals of others and for acts of negligence by the owner, or his or her agents, in the keeping or owning of such vicious dog. Said certificate shall require notice to the town in the event the underlying policy of insurance is cancelled for any reason;

- (v) Include two (2) color photos of the dog; and
- (vi) Following initial registration, the owner of a vicious dog must provide the town with an updated registration packet, meeting all of the above requirements, along with the twenty-five dollar (\$25.00) annual fee, on or before December 31 of each subsequent year, for as long as the vicious dog is kept within the Town of Signal Mountain. The first update will be waived if it comes due less than six (6) months after initial registration.
- (d) The owner of a vicious dog shall confine such vicious dog within a building or secure enclosure where the vicious dog resides and shall not take such vicious dog out of the building or secure enclosure unless such vicious dog is securely muzzled.
- (e) The owner of a vicious dog shall post in a conspicuous place at each entrance to such building or enclosure, including within five feet (5') from the edge of the street at any point where a driveway or sidewalk meets the street from the owner's property or other place where the vicious dog resides, a clearly legible and visible sign warning all persons preparing to enter said building or enclosure, sidewalk or driveway of the dangerous propensities of the vicious dog confined therein.
- (f) The owner of the vicious dog shall be required to notify the town within twenty-four (24) hours of any transfer of ownership of the vicious dog, the vicious dog's escape or death, any change of address by the owner (or the person who keeps the vicious dog, if not the owner), and/or birth of offspring to the vicious dog.

(4) Appeals.

(a) Within seven (7) days of receipt of the notice from the chief of police or designee declaring his or her dog a vicious dog, the owner may contest the vicious dog declaration by the chief of police or designee by delivering an objection to the declaration to the town manager at the Signal Mountain Town Hall. If the seventh day falls upon a holiday or weekend or other day that the Signal Mountain Town Hall is not open for business, the deadline shall be extended to the next business day. After receipt of the objection, the town manager shall schedule and conduct a hearing on the matter as soon as practicable. The owner of the vicious dog shall be given not less than seventy-two (72) hours written notice of the time and place of said hearing. Said notice shall state a description of the vicious dog in question and the basis for the determination that the dog

is a vicious dog. The notice shall be served upon any adult residing at the premises where the animal is located, or may be posted on those premises if no adult is present to accept service.

- (b) If, after a hearing, the town manager or designee affirms the declaration that the dog is a vicious dog, the town manager or designee shall order the owner of the vicious dog to comply with the provisions pertaining to vicious dogs as required by this chapter or remove it from the town.
- (c) The order issued by the town manager or designee shall immediately be served upon the owner or other person who is in control of the vicious dog in the same manner as the notice of hearing. The order to register and confine, or remove a vicious dog from the town issued by the town manager or his or her designee may be appealed to the town council. In order to appeal such order, written notice of appeal must be filed with the town recorder within five (5) business days after delivery of the order. Failure to file such written notice of appeal shall constitute a waiver of right to appeal the order of the town manager or designee. If the owner of the vicious dog appeals the order to the town council, the owner must comply with the requirements laid out above for confinement or keep the vicious dog impounded at the expense of the owner until the town council makes a decision on the appeal.
- (d) If no appeal is filed, the owner of the vicious dog shall have three (3) additional days after the expiration of the time for appeal within which to comply with the order of the town manager or designee. If the owner of the vicious dog does not comply with the order on or before the eighth day after the order is delivered to the owner of the vicious dog, the town manager or designee is authorized to seize and impound the vicious dog at the owner's expense. A vicious dog so seized shall be impounded for a period of seven (7) days. If at the end of the impoundment period, the owner of the vicious dog has not complied with the order of the town manager or designee, the town manager or designee shall cause the vicious dog to be destroyed.
- (e) If a notice of appeal is filed with the town council, the notice of appeal shall state the grounds for such appeal and shall be delivered personally or by certified mail to the town recorder. The hearing of such appeal shall be scheduled within twenty (20) days of the receipt of notice of appeal. The hearing may be continued for good cause. After such hearing, the town council may affirm or reverse the order of the town manager or his or her designee. Such determination shall be contained in a written decision and shall be filed with the town recorder within three (3) days after the hearing, or any continued session thereof. The hearing shall be confined to the record made before the town manager or designee and the arguments of the parties or their representative, but no additional evidence shall be taken.

- (f) If the town council affirms the order of the town manager or designee, the town council shall order in its written decision that the owner of the vicious dog shall register and confine said vicious dog as required by this chapter or remove such vicious dog from the town. The decision and order shall immediately be served upon the owner of the vicious dog in the same manner as the notice set out in subsection 5.(a) above. If the owner of the vicious dog does not comply with the order of the town council after appeal within three (3) days of its issuance, the chief of police or his or her designee is authorized to seize and impound such vicious dog. A vicious dog so seized shall be impounded for a period of seven (7) days. If at the end of the impoundment period, the owner of the vicious dog has not petitioned the town judge for a review of said order, or has not complied with the order, the town manager or his or her designee shall cause the dog to be destroyed.
- (5) All unregistered vicious dogs shall be deemed illegal animals. Any person found harboring or keeping an unregistered vicious dog shall submit an application to register the vicious dog within five (5) days of receiving notice from the Town of Signal Mountain or its designee. If no application to register is timely submitted, the person found harboring or keeping an unregistered vicious dog shall immediately have the illegal animal removed from the town limits. If the illegal animal is thereafter found in the town while unregistered or if the person harboring or keeping the illegal animal fails to remove it from the town within ten (10) days after being notified by the town, then the vicious dog shall be destroyed. This section shall not apply to a dog which, upon initial notice to its owner, the owner agrees to properly register and confine; or to a dog for which a hearing has been requested under this chapter to determine if it is a vicious dog until there has been a final decision on the questions raised at a hearing at which time the owner may, if the dog is found to be a vicious dog, properly register and confine said dog.
- (6) Any dog which is alleged to be vicious and which is under impoundment shall be held at the expense of the owner pending the outcome of any hearing. All costs of such impoundment shall be paid by the owner if the dog is determined to be vicious. If the dog is not determined to be vicious, all costs shall be paid by the town except costs attributable to initial confinement prior to notice or cost of any required impoundment which shall nonetheless be paid by the owner.
- (7) Any dog which has been previously declared vicious or which is believed to be vicious and is not properly confined may be treated as a dangerous animal, and be immediately seized anywhere within the town and the owner may be cited to municipal court pursuant to § 10-212 below. (Ord. #90-6, Nov. 1990, as amended by Ord. #98-4, March 1998, and replaced by Ord. #2010-15, Oct. 2010, and Ord. #2020-01, Feb. 2020 *Ch20_06-28-21*)

- 10-210. <u>Removal</u>. Any animal required by any provision of this chapter to be removed, voluntarily or otherwise, from the town shall be so removed by its owner or the person harboring or having control of such animal who shall provide the chief of police a notarized statement designating the place to which the animal has been removed. An animal not removed as required, or an animal which has been removed and which is again found illegally within the town shall be destroyed. (as added by Ord. #2020-01, Feb. 2020 *Ch20_06-28-21*)
- 10-211. <u>Enforcement</u>. The entity the town council has designated to enforce animal control or other person appointed by the town council, shall implement and enforce the provisions of this chapter and shall have the power to make citations for any violation thereof to the town judge. It shall be unlawful for any person to hinder, molest or interfere with such society or person in the performance of their duties hereunder. (1985 Code, § 3-209, as replaced by Ord. #2010-15, Oct. 2010, and Ord. #2020-01, Feb. 2020 *Ch20_06-28-21*)
- 10-212. <u>Violations</u>. Any person who owns, keeps, or harbors a dog or cat in violation of any provision of this chapter, who fails or refuses to have such dog or cat inoculated or reinoculated against rabies, or who obstructs or interferes in any manner with the enforcement of this chapter, shall be cited to the town judge and is subject to punishment of fines, costs, and penalties as set forth in this municipal code and authorized by <u>Tennessee Code Annotated</u>, § 6-54-308. (as added by Ord. #2020-01, Feb. 2020 *Ch20_06-28-21*)

TITLE 11

MUNICIPAL OFFENSES

CHAPTER

- 1. MISDEMEANORS OF THE STATE ADOPTED.
- 2. ALCOHOL.
- 3. AGAINST THE PERSON.
- 4. GAMBLING, FORTUNE TELLING, ETC.
- 5. FIREARMS.
- 6. OBSCENITY, MORALS.
- 7. INTERFERENCE WITH PUBLIC OPERATION AND PERSONNEL.
- 8. TRESPASSING, LOITERING, VAGRANCY, PROWLING, MISCHIEF, ETC.
- 9. DANGEROUS CONDITIONS ON PROPERTY.
- 10. AGAINST THE PEACE AND QUIET.
- 11. LITTERING, POSTING NOTICES, ETC.

CHAPTER 1

MISDEMEANORS OF THE STATE ADOPTED

SECTION

11-101. Misdemeanors of the state adopted.

11-101. <u>Misdemeanors of the state adopted</u>.¹ 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 the town also. Any violation of any such law within the corporate limits is also a violation of this section. (1985 Code, § 10-101)

¹See sections 39-1-103 and 39-1-104 of the <u>Tennessee Code Annotated</u> for definitions of "misdemeanor."

$ALCOHOL^1$

- 11-201. Possessing alcoholic beverages on town property.
- 11-202. Drinking alcoholic beverages in public.
- 11-201. Possessing alcoholic beverages on town property. It shall be unlawful for any person to possess a can, bottle, or container of beer, wine, or any other alcoholic beverage, whether opened or unopened in or on any Town of Signal Mountain property unless the premises has been issued a permit and license for on-premises consumption of alcoholic beverages by the town council. Any violation of this section shall be punishable by a municipal fine of up to fifty dollars (\$50.00) and costs of court for each offense. (Ord. #86-2, April 1986, as replaced by Ord. #2009-5, May 2009, and Ord. #2019-16, Oct. 2019 *Ch20_06-28-21*)
- 11-202. <u>Drinking alcholic beverages in public, etc.</u> It shall be unlawful for any person to drink, consume or have an open can or bottle of beer or any other alcoholic beverage in or on any public street, alley, avenue, highway, sidewalk, public park, public school ground, or other public place unless the premises has been issued a permit and license for on-premises consumption of alcoholic beverages by the town council. (1985 Code, § 10-202, as replaced by Ord. #2009-5, May 2009)

¹See title 8 of this code for detailed provisions governing the sale of alcoholic beverages within the town.

AGAINST THE PERSON

- 11-301. Assault and battery.
- 11-302. Coercing people not to work.
- 11-301. <u>Assault and battery</u>. It shall be unlawful for any person to commit an assault and battery upon another person. (1985 Code, § 10-301)
- 11-302. Coercing people not to work. It shall be unlawful for any person in association or agreement with any other person to assemble, congregate, or meet together in the vicinity of any premises where other persons are employed or reside for the purpose of inducing any such other person by threats, coercion, intimidation, or acts of violence to quit or refrain from entering a place of lawful employment. It is expressly not the purpose of this section to prohibit peaceful picketing. (1985 Code, § 10-302)

GAMBLING, FORTUNE TELLING, ETC.

- 11-401. Gambling prohibited.
- 11-402. Promotion of gambling.
- 11-403. Fortune telling, etc.
- 11-401. <u>Gambling prohibited</u>. It shall be unlawful for any person to play at any game of hazard or chance for money or other valuable thing or to make or accept any bet or wager for money or other valuable thing. (1985 Code, § 10-401)
- 11-402. <u>Promotion of gambling</u>. It shall be unlawful for any person to encourage, promote, aid, or assist the playing at any game, or the making of any bet or wager, for money or other valuable thing, or to possess, keep, or exhibit for the purpose of gambling, any gaming table, device, ticket, or any other gambling paraphernalia. (1985 Code, § 10-402)
- 11-403. <u>Fortune telling, etc.</u> It shall be unlawful for any person to hold himself forth to the public as a fortune teller, clairvoyant, hypnotist, spiritualist, palmist, phrenologist, or other mystic endowed with supernatural powers. (1985 Code, § 10-403)

FIREARMS

- 11-501. Firearms
- 11-502. Hunting
- 11-503. Possession of firearms in town owned properties
- 11-501. <u>Firearms</u>. It shall be unlawful for any person to discharge firearms within the corporate limits of the Town of Signal Mountain, 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. (1985 Code, § 10-501, as replaced by Ord. #2019-02, Jan. 2019 *Ch19_8-26-19*)
- 11-502. <u>Hunting</u>. It shall be unlawful to hunt on any property owned, leased or otherwise controlled by the Town of Signal Mountain. Hunting on private property is controlled by and must comply with state law and/or the regulations of the Tennessee Wildlife Commission. (1985 Code, § 10-502, as replaced by Ord. #2019-02, Jan. 2019 *Ch19_8-26-19*)
- 11-503. <u>Possession of firearms in town owned properties</u>. In accordance with <u>Tennessee Code Annotated</u>, § 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 <u>Tennessee Code Annotated</u>, § 39-17-1351 shall be able to lawfully possess a firearm on town owned property.
- (3) The town may restrict possession of firearms by a handgun carry permit holder if the following are provided at each public entrance to the property:
 - (a) Metal detection devices;
 - (b) At least one (1) law enforcement or private security officer who has been adequately trained to conduct inspections of persons entering the property by use of metal detection devices; and
 - (c) That each person who enters the property through the public entrance when the property is open to the public and any bag, package, and other container carried by the person is inspected by a law

enforcement or private security officer or an authorized representative with the authority to deny entry to the property.

- (4) The possession of firearms including by a handgun carry permit holder is prohibited at the following locations:
 - (a) In the immediate vicinity of any town owned athletic field, park, or other similar public place during any school sponsored athletic event or other school-related activity;
 - (b) Buildings in which judicial proceedings take place including the Signal Mountain Town Hall, regardless of whether a judicial proceeding is in progress;
 - (c) Buildings that contain a law enforcement agency including the Signal Mountain Police and Fire Department buildings; and
 - (d) The Signal Mountain Public Library. (as added by ord. No. 91-12, and replaced by Ord. #2019-02, Jan. 2019 *Ch19_8-26-19*)

OBSCENITY, MORALS

- 11-601. Disorderly houses.
- 11-602. Immoral conduct.
- 11-603. Obscene literature, etc.
- 11-604. Indecent or improper exposure or dress.
- 11-605. Window peeping.
- 11-606. Profanity, etc.
- 11-601. <u>Disorderly houses</u>. (1) For the purposes of this section, a "disorderly house" shall mean any house or place in which people abide or to which they resort, to the disturbance of the neighborhood, for purposes which are injurious to the public morals, health, convenience or safety or in which illegal practices or violations of law are carried on or where loud and improper noises are made or where drunken, noisy persons congregate or that is so kept as to tend to corrupt the public morals or the general good order of the community.
- (2) It shall be unlawful for any person in the town to keep or be in charge of a disorderly house or for any person to visit, occupy, or remain in a disorderly house.
- (3) It shall be unlawful for the owner of any property in the town to rent the premises for the purpose of maintaining or operating a disorderly house thereon or to knowingly permit a disorderly house to be maintained or operated thereon. Evidence that a disorderly house is being maintained or operated by a tenant or occupant of any property shall be prima facie evidence that the maintenance and operation of the disorderly house is with the knowledge and permission of the owner of the property.
- (4) The maintenance and operation of a disorderly house is declared to be a nuisance, in addition to being an offense, and is subject to be abated as such by appropriate proceedings. (1985 Code, § 10-601)
- 11-602. <u>Immoral conduct</u>. No person shall commit, offer, or agree to commit, nor shall any person secure or offer another for the purpose of committing a lewd or adulterous act or an act of prostitution or moral perversion; nor shall any person knowingly transport or direct or offer to transport or direct any person to any place or building for the purpose of committing any lewd act or act of prostitution or moral perversion; nor shall any person knowingly receive, or offer or agree to receive any person into any place or building for the purpose of performing a lewd act, or an act of prostitution or moral perversion, or knowingly permit any person to remain in any place or building for any such purpose. (1985 Code, § 10-602)

- 11-603. Obscene literature, etc. It shall be unlawful for any person to knowingly sell, distribute, display, exhibit, possess with the intent to sell, distribute, display or exhibit; or to publish, produce, or otherwise create with the intent to sell, distribute, display or exhibit any obscene material. This section shall not be construed to permit the seizure or suppression of any material, obscene or otherwise, such seizure or suppression to be lawful only as expressly provided for by law. However, if the town attorney is of the opinion that this section is being violated, he may file a petition in a circuit, chancery, or criminal court in the county relating his opinion, and request the court to issue a temporary injunction enjoining the person named in the petition from removing the obscene material from the jurisdiction of the court pending an adversary hearing on the petition and further enjoining the person named in the petition from selling, distributing, displaying, or exhibiting the obscene material pending an adversary hearing on the petition. (1985 Code, § 10-603)
- 11-604. <u>Indecent or improper exposure or dress</u>. It shall be unlawful for any person publicly to appear naked or in any dress not appropriate to his or her sex, or in any indecent or lewd dress, or otherwise to make any indecent exposure of his or her person. (1985 Code, § 10-604)
- 11-605. <u>Window peeping</u>. No person shall spy, peer, or peep into any window of any residence or dwelling premise that he does not occupy, nor shall he loiter around or within view of any such window with the intent of watching or looking through it. (1985 Code, § 10-605)
- 11-606. <u>Profanity, etc.</u> No person shall use any profane, vulgar, or indecent language in or near any public street or other public place or in or around any place of business open to the use of the public in general. (1985 Code, § 10-606)

INTERFERENCE WITH PUBLIC OPERATIONS AND PERSONNEL

SECTION

- 11-701. Escape from custody or confinement.
- 11-702. Resisting or interfering with an officer.
- 11-703. Impersonating a government officer or employee.
- 11-704. False emergency alarms.
- 11-705. Burglar and fire alarms.
- 11-701. <u>Escape from custody or confinement</u>. 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. (1985 Code, § 10-701)
- 11-702. Resisting or interfering with an officer. It shall be unlawful for any person knowingly to resist or in any way interfere with or attempt to interfere with any officer or employee of the town while such officer or employee is performing or attempting to perform his town duties. (1985 Code, § 10-702)
- 11-703. <u>Impersonating a government officer or employee</u>. 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. (1985 Code, § 10-703)
- 11-704. <u>False emergency alarms</u>. It shall be unlawful for any person to intentionally make, turn in, or give a false alarm of fire, or of need for police or ambulance assistance, or to aid or abet in the commission of such act. (1985 Code, § 10-704)
- 11-705. <u>Burglar and fire alarms</u>. It shall be unlawful to install or operate a burglar or fire alarm system without first giving written notice to the town public safety director of the name and telephone number of whoever assumes the responsibility for cutting off the alarm system when advised to do so by the town police or fire department.

It shall likewise be unlawful for the owner or operator of an alarm system not to keep said information current and correct relative to the telephone number and name of whoever has assumed said responsibility for cutting off the alarm system. It shall be unlawful for the owner or operator of the alarm

system not to provide the names and telephone numbers of persons who will be available to cut off the alarm on a twenty-four hour basis every day of the year.

Each time there is a false alarm, the police or fire department shall notify the owner, by written report, and the owner shall have ten (10) days from the date of receipt of such notice to clarify and correct the fault of the false alarm with the public safety director.

If the owner does not do this to the satisfaction of the public safety director, the latter may assess a fee against the owner on an annual (calendar) year basis as follows:

- (1) First Alarm-No Charge
- (2) Second Alarm-No Charge
- (3) Third Alarm-No Charge
- (4) Fourth Alarm and all subsequent alarms-\$25.00. (1985 Code, § 10-705, as replaced by Ord. #94-7, § 1, Oct. 1994; and amended by Ord. #97-9, § 1, Aug. 1997, and Ord. #98-23, July 1998)

TRESPASSING, LOITERING, VAGRANCY, PROWLING, MISCHIEF, ETC.

SECTION

- 11-801. Trespassing.
- 11-802. Malicious mischief.
- 11-803. Loitering.
- 11-804. Prowling.
- 11-805. Vagrancy.
- 11-806. Removal of or damage to town property.
- 11-807. Climbing or rappelling on bluffs in the town.
- 11-801. <u>Trespassing</u>. The owner or person in charge of any lot or parcel of land or any building or other structure within the corporate limits may post the same against trespassers. It shall be unlawful for any person to go upon any such posted lot or parcel of land or into any such posted building or other structure without the consent of the owner or person in charge.

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. (1985 Code, § 10-801)

- 11-802. <u>Malicious mischief</u>. It shall be unlawful and deemed to be malicious mischief for any person to wilfully, maliciously, or wantonly damage, deface, destroy, conceal, tamper with, remove, or withhold real or personal property which does not belong to him. (1985 Code, § 10-802)
- 11-803. <u>Loitering</u>. It shall be unlawful for any person without legitimate business or purpose to loaf, loiter, wander, or idle in, upon, or about any way or place customarily open to public use. (1985 Code, § 10-803)
- 11-804. <u>Prowling</u>. It shall be unlawful for any person to prowl or wander about the streets, alleys, or other public or private ways or places, or be found abroad at late or unusual hours in the night without any visible or lawful business and when unable to give a satisfactory account of himself. (1985 Code, § 10-804)
- 11-805. <u>Vagrancy</u>. It shall be unlawful for any person to beg or solicit alms or, if without apparent lawful means of support, willfully to neglect to apply himself to some honest occupation. (1985 Code, § 10-805)
- 11-806. Removal of or damage to town property. It shall be unlawful for any person to remove, destroy, mutilate or deface any tree, shrub, plant, fern,

flower or other plant growth, stones, mineral, soil, structures, fences, or buildings on Town property. (1985 Code, § 10-806, as amended by ord. No. 92-16)

11-807. <u>Climbing or rappelling on bluffs in the town</u>. It shall be unlawful for any person to climb on or rappel from any bluff or rock formation located on publically owned municipal property within the Town of Signal Mountain. Duly authorized rescue personnel are exempted during training or rescue operations. (as added by Ord. #92-10, and replaced by Ord. #2013-04, Feb. 2013)

DANGEROUS CONDITIONS ON PROPERTY

- 11-901. Abandoned refrigerators, etc.
- 11-902. Caves, wells, cisterns, etc.
- 11-903. Fires endangering woodlands.
- 11-901. <u>Abandoned refrigerators, etc.</u> It shall be unlawful for any person to leave in any place accessible to children any abandoned, unattended, unused, or discarded refrigerator, icebox, or other container with any type latching or locking door without first removing therefrom the latch, lock, or door. (1985 Code, § 10-901)
- 11-902. <u>Caves, wells, cisterns, etc.</u> It shall be unlawful for any person to permit to be maintained on property owned or occupied by him any cave, well, cistern, or other such opening in the ground which is dangerous to life and limb without an adequate cover or safeguard. (1985 Code, § 10-902)
- 11-903. <u>Fires endangering woodlands</u>.¹ It shall be unlawful for any person to start a fire so as to endanger or destroy woodlands within the town. (1985 Code, § 10-903)

¹See title 7, chapter 2 for regulations governing open burning within the town.

AGAINST THE PEACE AND QUIET

- 11-1001. Disturbing the peace.
- 11-1002. Anti-noise regulations.
- 11-1003. Declared unnecessary noises enumerated.
- 11-1004. Non-vehicular noises restricted.
- 11-1005. Vehicular noise regulations.
- 11-1006. Excessive noise from motor vehicles.
- 11-1007. Exemptions.
- 11-1001. <u>Disturbing the peace</u>. No person shall disturb, tend to disturb, or aid 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. (1985 Code, § 10-1001, as replaced by Ord. #2010-16, Oct. 2010)
- 11-1002. <u>Anti-noise regulations</u>. (1) The making, creation or permitting of any unreasonably loud, disturbing or unnecessary noise in the town which may disturb the peace and quiet of residential neighbors is prohibited.
- (2) The making, creating or permitting of any noise of such character, intensity or duration as to be detrimental to the life, health or welfare of any individual or which either steadily or intermittently annoys, disturbs, injures or endangers the comfort, repose, peace or safety of any individual is prohibited.
- (3) To assist in applying uniform standards for the enforcement of noise problems within the town, the following standards shall apply:
 - (a) Within all residential zones. No person shall cause, suffer, allow or permit sound from any source which when measured at the point of annoyance, between designated hours is in excess of:
 - (i) 7:00 A.M. to 9:00 P.M.:
 - (A) Continuous airborne sound which has a sound level of 60 dbAs.
 - (B) Impulsive sound in air with an impulsive sound level of 80 dbAs.
 - (ii) 9:00 P.M. to 7:00 A.M.:
 - (A) Continuous airborne sound which has a sound level of 50 dbAs.
 - (B) Impulsive sound in air with an impulsive sound level of 70 dbAs.
 - (b) Within all commercial zones. No person shall cause, suffer, allow or permit sound from any source which when measured at the point of annoyance, between designated hours is in excess of:

- (i) 7:00 A.M. to 9:00 P.M.:
- (A) Continuous airborne sound which has a sound level of 65 dbAs.
- (B) Impulsive sound in air with an impulsive sound level of 80 dbAs.
- (ii) 9:00 P.M. to 7:00 A.M.:
- (A) Continuous airborne sound which has a sound level of 55 dbAs.
- (B) Impulsive sound in air with an impulsive sound level of 80 dbAs. (1985 Code, § 10-1002, as amended by Ord. #18, July 1999, and replaced by Ord. #2010-16, Oct. 2010)
- 11-1003. <u>Declared unnecessary noises enumerated</u>. The following acts, among others, are declared to be loud or disturbing or unnecessary noises in violation of this chapter even if the noises referred to do not violate the standard noise level for the town.
 - (1) Horns, signal devices and the like. (a) The sounding of any horn or signal device of any automobile, motorcycle, bus or other vehicle:
 - (i) While not in motion or unless minimal by use of a key fob, except as a danger signal that another vehicle is approaching apparently dangerously; or
 - (ii) If in motion:
 - (A) After or as brakes are being applied and deceleration of the vehicle is intended;
 - (B) Before passing another vehicle as a signal of intent to so pass;
 - (C) Where state motor vehicle statutes require the sounding of such a horn or signaling device; or
 - (D) When otherwise necessary as a danger signal.
 - (b) Wherever the sounding of any horn or signal device is permitted or required such sound shall not be unreasonably loud or harsh and shall not be for an unreasonable duration of time.
- (2) <u>Animals and birds</u>. The keeping of any animal or bird which, by causing frequent or long-continued noise, disturbs the comfort and repose of any person in their vicinity.
- (3) <u>Defect in vehicle or noisy load</u>. The use of any automobile, motorcycle or other vehicle so out of repair or loaded in such a manner as to create loud or unnecessary grating, grinding, rattling or other noise.
- (4) <u>Exhausts</u>. The discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine, motor vehicle or motorcycle engine except through a muffler or other device which meets the standards established for such devices by applicable state laws and regulations.

- (5) <u>Mechanical devices</u>. The use of mechanical devices operated by compressed air unless the noise created thereby is effectively muffled and reduced to the extent required by state laws and regulations.
- (6) Schools, courts, and churches. The creation of any loud or excessive noise on any street adjacent to any school or institution of learning, church or judicial court while the same are in session, which noise unreasonably interferes with the workings of such institutions; this restriction shall be in force only if signs are displayed in such streets indicating the same is a school, church, or court street or quiet zone.
- (7) <u>Loading or unloading of vehicles; opening or destruction of boxes</u>. The creation of a loud or excessive noise in connection with loading or unloading any vehicle or the opening or destruction of bales, boxes, crates, and containers. Commercial refuse collection is prohibited between the hours of 10:00 P.M. and 7:00 A.M.
- (8) <u>Devices attached to buildings</u>. The sounding of any bell, gong or device attached to any building or premises, particularly during the hours between 10:00 P.M. and 7:00 A.M., which disturbs the quiet or repose of any persons in the vicinity of the devices. This rule shall not apply if the bell, gong or device is a sounded as a warning of danger.
- (9) <u>Vehicles and buses</u>. The unnecessary or prolonged blowing or sounding of any horn, whistle, bell or other device attached to any motor vehicle, bus or truck while passing through the town or while loading passengers or freight within the town.
- (10) <u>Loudspeakers and amplifiers on vehicles</u>. The use of mechanical loudspeakers or amplifiers on trucks or other vehicles for advertising or other commercial purposes.
- (11) <u>Construction or repair of buildings</u>. Construction, demolition, repair, paving or alteration of buildings or streets or excavation when conducted between the hours of 7:00 P.M. and 7:00 A.M. (8:00 A.M. on Saturdays and Sundays), except in emergencies. Property owners making repairs and/or alterations on their own property of residence may work until 9:00 P.M. (as added by Ord. #2010-16, Oct. 2010)
- 11-1004. Non-vehicular noises restricted. No person shall use or operate any facility, machine or instrument or produce or cause to be produced any sound in the town, when the same shall produce noise, the sound-pressure level of which, measured at the point of annoyance complained of, shall exceed the standard noise level of the town established for that location and time of day. In measuring noises to determine if the standard noise level of the town has been exceeded, the measurement shall be measured on the A-weighting of an accurate sound-level meter. The background or ambient sound level is defined as the sound present when the offending noise source is silenced. (as added by Ord. #2010-16, Oct. 2010)

11-1005. <u>Vehicular noise regulations</u>. (1) No person shall operate, within the limits of the town, any vehicle which will emit noise which will exceed the standard noise level of the town established for the type vehicle when used under ordinary circumstances. For vehicles, the standard noise level of the town is hereby established as follows:

Type of vehicle
Vehicle other than motorcycles
Motorcycles

Maximum noise level (dbAs)
76
82

- (2) Measurements shall be taken fifty feet (50') from the source. (as added by Ord. #2010-16, Oct. 2010)
- 11-1006. Excessive noise from motor vehicles. (1) No person operating or occupying a motor vehicle on any public street, highway, alley, parking lot, or driveway within the town, shall operate or permit the operation of any sound amplification system, including, but not limited to, any radio, tape player, compact disc player, loudspeaker, or any other electrical device used for the amplification of sound from within the motor vehicle so that the sound is plainly audible at a distance of fifty (50) or more feet from the vehicle. For the purpose of this section "plainly audible" means any sound which clearly can be heard, by unimpaired auditory senses based on a direct line of sight of fifty (50) or more feet, however, words or phrases need not be discernible and such sound shall include bass reverberation.
- (2) This section shall not be applicable to emergency or public safety vehicles, vehicles owned or operated by a municipal or county government or any utility company, for sound emitted unavoidably during a job-related operation, school or community sponsored activities, or any motor vehicle used in an authorized public activity, such as a parade. (as added by Ord. #2010-16, Oct. 2010)
- 11-1007. <u>Exemptions</u>. Exemptions from noise level limits shall be as follows:
- (1) Emergency construction, repair, pavings demolition, or alteration of a street or building. Permission of the town administrator shall be proof that such emergency exists.
- (2) Emergency activities of municipal, county, state, or federal government agencies and emergency activities of public utilities when they are seeking to provide electricity, water or other public utility services and the public health, safety or welfare are involved.
- (3) Warning devices on authorized emergency vehicles and on vehicles used for traffic safety purposes.
- (4) Attendant on-site noise connected with the actual performance of sporting events, parades, auctions, fairs and festivals.

- (5) Power lawn mowers and other lawn care equipment, when operated between the hours of 8:00~A.M. (9:00~A.M. on Saturdays and Sundays) and 9:00~P.M.
- (6) Air conditioners that increase the background or ambient sound level no more than five (5) dbAs. (as added by Ord. #2010-16, Oct. 2010)

LITTERING, POSTING NOTICES, ETC.

- 11-1101. Littering prohibited.
- 11-1102. Unauthorized posting of notices.
- 11-1101. <u>Littering prohibited</u>. No person shall throw, place, or deposit unsubscribed newspapers, handbills, advertisement sheets, posters, litter, garbage, or trash on public or private property including vehicles of all types within the limits of the Town of Signal Mountain, Tennessee, except in garbage receptacles for collection or in an official town dumpster. (1985 Code, § 10-1101, as amended by Ord. #93-6, § 1, Jan. 1993)
- 11-1102. <u>Unauthorized posting of notices</u>. No person shall fasten in any way any showcard, poster, newspaper, news letter or other advertising device upon any United States mailbox, or post supporting same, unless such person obtains written permission from the owner of the mailbox and post. (1985 Code, § 10-1102, as repealed by Ord. #93-1, § 1, Jan. 1993, and added by Ord. #2000-5, April 2000)

TITLE 12

BUILDING, UTILITY, ETC. CODES¹

CHAPTER

- 1. BUILDING CODE.
- 2. PLUMBING CODE.
- 3. MECHANICAL BUILDINGS.
- 4. GAS CODE.
- 5. ENERGY CONSERVATION CODE.
- 6. ELECTRICAL CODE.
- 7. SWIMMING POOL CODE.
- 8. UNSAFE BUILDING CODE.
- 9. SITE PREPARATION, EXCAVATION AND GRADING CODE.
- 10. CONSTRUCTION BOARD OF ADJUSTMENT AND APPEALS.
- 11. OFFICE OF ADMINISTRATIVE HEARING OFFICER.

CHAPTER 1

BUILDING CODE

SECTION

- 12-101. Building code adopted.
- 12-102. Accessibility code adopted.
- 12-103. Appendices to code adopted.
- 12-104. Amendments to code adopted.
- 12-105. Responsibility of general contractor's for removal of construction debris.
- 12-106. Reinspection and correction of defects.
- 12-107. Violations and penalties.
- 12-108. Stop work orders.

12-101. <u>Building code adopted</u>. The <u>International Building Code</u>, 2018 edition, and the <u>International Residential Code</u>, 2018 edition, and the <u>International Existing Building Code</u>, 2018 edition, one (1) copy of each which are, and have been, on file in the office of the town recorder for more than fifteen (15) days, are hereby adopted as the official building codes of the town. (Ord. #88-2, May 1988, as amended by Ord. #99-17, July 1999, and replaced by Ord. #2005-6, Sept. 2005, Ord. #2010-20, Nov. 2010, and Ord. #2020-11, Sept. 2020 *Ch20_06-28-21*)

¹See title 7, <u>Fire Protection and Fireworks</u>, for fire code; title 19, <u>Electricity and Gas</u>, for gas and electric codes.

- 12-102. <u>Accessibility code adopted</u>. The American National Standard entitled <u>Accessible and Usable Buildings and Facilities</u> (ICC/ANSI A117.1-2017) and 2010 <u>ADA Standards for Accessible Design</u>, one (1) copy of which is, and has been on file for more than fifteen (15) days, with the town recorder of the town council, are hereby adopted as the official accessibility code of the town. (1985 Code, § 4-102, as amended by Ord. #94-11, Nov. 1994, and Ord. #98-3, Feb. 1998; and replaced by Ord. #2005-6, Sept. 2005, Ord. #2010-20, Nov. 2010, and Ord. #2020-11, Sept. 2020 *Ch20_06-28-21*)
- 12-103. <u>Appendices to code adopted</u>. The following appendices to the <u>International Building Code</u>, 2018 edition, and the <u>International Residential Code</u>, 2018 edition, and as further amended in this chapter, are hereby adopted as part of the official building codes of the town:
 - (1) <u>International Building Code</u>.

Appendix A - Employee Qualifications, as amended.

Appendix C - Agricultural Buildings.

Appendix D - Fire District.

Appendix F - Rodent Proofing.

Appendix G - Flood-Resistant Construction.

Appendix I - Patio Covers.

Appendix J - Grading.

(2) <u>International Residential Code</u>.

Appendix A - Sizing and Capacities of Gas Piping.

Appendix B - Sizing of Venting Systems.

Appendix C - Exit Terminals of Mechanical Draft.

Appendix D - Recommended Installation of Existing Appliances.

Appendix H - Patio Covers.

Appendix N - Venting Methods.

Appendix Q - Tiny Houses.

(1985 Code, § 4-102, as amended by Ord. #94-11, Nov. 1994, and Ord. #98-3, Feb. 1998; and replaced by Ord. #2005-6, Sept. 2005, and Ord. #2010-20, Nov. 2010, and Ord. #2020-11, Sept. 2020 *Ch20_06-28-21*)

- 12-104. <u>Amendments to code adopted</u>. (1) The following sections and appendices of the <u>International Building Code</u>, 2018 edition, are hereby amended, as hereinafter provided:
 - (a) Section 105.1.1, 105.1.2, and 105.2 are deleted in their entirety.
 - (b) Section 105.1 add Construction of one (1) and two (2) family dwellings, townhouses, and additions thereto of thirty (30) square feet or more of interior space.
 - (c) Section 109.2 <u>Fees</u>. The Building Fee Schedule has been moved to Title 5, Chapter 5, Section 5-508.

- (2) The following amended sections of the <u>International Residential</u> <u>Code</u>, 2018 edition, as hereinafter provided:
 - (a) Section R108.2 <u>Fees</u>. The Building Fee Schedule has been moved to Title 5, Chapter 5, Section 5-508.
 - (b) Section R112 is amended by deleting such section in its entirety and substituting in lieu thereof the following language:
 - Section R112. <u>Construction Board of Appeals</u>. The Construction Board for the Town of Signal Mountain shall hear Building, Residential, Electrical, Fire, Fuel Gas, Life Safety, Mechanical and Plumbing appeals of the Signal Mountain Town Code as established by Section 12-601, et seq., and shall act as the Board of Appeals for appeals from any decision of the Building Official or any designee and to consider variances of the technical codes as provided in this Code.
 - (c) Figure R301.2(2) Seismic Design Categories is deleted and replaced with Figure R301.2(2) Seismic Design Categories Site Class D from 2015 IRC. (as per <u>Tennessee Code Annotated</u>, § 68-120-101(a), (b) and (d)).
 - (d) Section R313. Automatic Fire Sprinkler Systems.

Section R313.2. One and Two-Family Dwelling Automatic Fire Sprinkler Systems is deleted in its entirety.

(e) Section R314.6 Power Source relating to Smoke Alarms is amended to create Exception 3 that shall read:

Exception 3. Interconnection and hardwiring of smoke alarms in existing areas shall not be required where the alterations or repairs do not result in the removal of interior walls or ceiling finishes exposing the structure. (as per <u>Tennessee Code Annotated</u>, § 68-120-101(a), (b) and (d)).

- (f) Section R403. <u>Footings</u>. Table R403.1(1), Table R403.1(2) and Table R403.1(3) entitled Minimum Width of Concrete or Masonry Footings is amended to reflect a minimum of 16 inches wide for all concrete footing.
- (g) Table N1102.1.2 (R402.1.2) Insulation and Fenestration Requirement by Component and Table N1102.1.4 (R402.1.4) Equivalent U-Factors from 2018 IRC are replaced with Table N1102.1 Insulation and Fenestration Requirements by Component and Table N1102.1.2 Equivalent U-Factor from 2009 IRC. (as per <u>Tennessee Code Annotated</u>, § 68-120-101(a), (b) and (d)).
- (h) Section N1102.4.4 (R402.4.4) Rooms Containing Fuel-Burning Appliances is deleted in its entirety. (as per <u>Tennessee Code Annotated</u>, § 68-120-101(a), (b) and (d)).
- (i) 9. Table N 1102.1 Insulation and Fenestration Requirements by Component in the 2009 edition is adopted and amended by adding the

- following as footnote "I": "Log walls complying with ICC400 and with a minimum average wall thickness of 5" or greater shall be permitted in Zone 3 when a Fenestration U-Factor of .50 or lower is used, a Skylight U-Factor of .65 or lower is used, a Glazed Fenestration SHGC of .30 or lower is used, a 90 AFUE Furnace is used, an 85 AFUE Boiler is used, and a 9. 0 HSPF Heat Pump (heating) and 15 SEER (cooling) are used." (as per Tennessee Code Annotated, § 68-120-101(a), (b) and (d)).
- 10. Table N1102.1 Insulation and Requirements by Component in the 2009 edition is adopted and amended by adding the following as footnote "m": "Log walls complying with ICC400 and with a minimum average wall thickness of 5" or greater shall be permitted in Zone 4 when a Fenestration U-Factor of .35 or lower is used, a Skylight U-Factor of .60 or lower is used, a 90 AFUE Furnace is used, an 85 AFUE Boiler is used, and a 9.0 HSPF Heat Pump (heating) and 15 SEER (cooling) are used." (as per Tennessee Code Annotated, § 68-120-101(a), (b) and (d)). (1985 Code, § 4-103, as replaced by Ord. #2005-6, Sept. 2005, amended by Ord. #2006-11, June 2006, replaced by Ord. #2010-20, Nov. 2010, and Ord. #2020-11, Sept. 2020 Ch20 06-28-*21*)
- 12-105. Responsibility of general contractor's for the removal of construction debris. General contractors shall at all time keep the premises upon which they or their employees are working; free from accumulations of waste material or rubbish caused by their employees or work, and at the completion of work, they shall remove all rubbish from and about the building or structure and all their tools, scaffolding and surplus materials and shall leave their work "broom clean" or its equivalent. (1985 Code, § 4-104, as replaced by Ord. #2020-11, Sept. 2020 *Ch20_06-28-21*)
- 12-106. <u>Reinspection and correction of defects</u>. Any work which fails initial inspection shall be subject to reinspection including fees associated with reinspection per title 5, chapter 5, section 507(c). (Ord. # 85-8, as replaced by Ord. #2020-11, Sept. 2020 *Ch20_06-28-21*)
- 12-107. <u>Violations and penalties</u>. Any person who shall violate or fail to comply with any of the provisions of this chapter will be subject to citation to appear before the administrative hearing officer. Upon determining that a violation does exist, the hearing officer has the authority to levy a fine in accordance with § 12-1108 of the Signal Mountain Municipal Code. For violations occurring upon residential property a hearing officer has the authority to levy a fine upon the violator not to exceed five hundred dollars (\$500.00) per violation. For violations occurring upon non-residential property a hearing officer has the authority to levy a fine upon the violator not to exceed five hundred dollars (\$500.00) per violation per day. Any fine levied by a hearing

officer must be reasonable based upon the totality of the circumstances. (1985 Code, § 4-106, as replaced by Ord. #2020-11, Sept. 2020 *Ch20_06-28-21*)

12-108. Stop work orders. Upon notice from the code official, any work that is being done contrary to the provisions of this code or in a dangerous or unsafe manner shall immediately cease. Such notice shall be in writing and shall be given to the owner of the property, or to the owner's agent, or to the person doing the work. The notice shall state the conditions under which work is authorized to resume. Where an emergency exists, the code official shall not be required to give a written notice prior to stopping the work. Any person who shall continue any work in or about the structure after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, will be subject to citation to appear before the administrative hearing officer. (as added by Ord. #2020-11, Sept. 2020 *Ch20_06-28-21*)

PLUMBING CODE

SECTION

- 12-201. Plumbing code adopted.
- 12-202. Appendices to the code adopted.
- 12-203. Amendments to code adopted.
- 12-204. Reinspection and correction of defects.
- 12-205. Violations and penalties.
- 12-206. Stop work order.
- 12-201. Plumbing code adopted. The International Plumbing Code, 2018 edition, one (1) copy of which is, and has been, on file in the office of the town recorder for more than fifteen (15) days, is hereby adopted as the official plumbing code of the town. (Ord. # 88-9, May 1988, as replaced by Ord. #2005-10, Oct. 2005, Ord. #2010-23, Nov. 2010, and Ord. #2020-12, Sept. 2020 *Ch20_06-28-21*)
- 12-202. <u>Appendices to the code adopted</u>. The following appendices to the <u>International Plumbing Code</u>, 2018 edition, and as further amended in this chapter, are hereby adopted as part of the official plumbing code of the town.

Appendix B - Rates of Rainfall.

Appendix C - Structural Safety.

Appendix D - Degree Day Temperature.

Appendix E - Sizing of Water Piping.

(1985 Code, § 4-202, as replaced by Ord. #2005-10, Oct. 2005, Ord. #2010-23, Nov. 2010, and Ord. #2020-12, Sept. 2020 $\it Ch20_06-28-21$)

- 12-203. <u>Amendments to code adopted</u>. The following sections and appendices of the <u>International Plumbing Code</u>, 2018 edition, are hereby amended, as hereinafter provided:
- (1) Section 101.1 is deleted in its entirety and the following language is substituted in lieu thereof:

Section 101.1 Title. These regulations shall be known as the International Plumbing Code of the Town of Signal Mountain hereinafter referred to as "this code."

- (2) Section 106.1 is deleted in its entirety and the following language is substituted in lieu thereof:
 - 106.1 When required. Any properly licensed contractor who desires to construct, enlarge, alter, repair, move, demolish or change the occupancy of a building or structure, or to erect, install, enlarge, alter, repair, remove, convert or replace any plumbing system, the installation of which is regulated by this code, or to cause any such work to be done, shall first

make application to the code official and obtain the required permit for the work.

(3) Section 106.5.3 and 106.5.4 are deleted in their entirety and the following new sections are substituted in lieu thereof:

Section 106.5.3 Expiration. Every permit issued by the code official under the provisions of this code shall expire by limitation and become null and void if the work authorized by such permit is not commenced within 180 days from the date of such permit, or if the work authorized by such permit is suspended or abandoned at any time after the work is commenced for a period of 180 days. Before such work can be recommenced, a new permit shall be first obtained. (delete the rest) Section 106.5.4 Extensions. Any permittee holding an unexpired permit shall have the right to apply for an extension of the time within which the permittee will commence work under that permit when work is unable to commenced within the time required by this section for good and satisfactory reasons. The code official shall extend the time for action by the permittee for a period not exceeding 180 days if there is reasonable cause. (delete the rest)

(4) Section 106.6.2 is deleted in its entirety and the following language and the following new sections are substituted in lieu thereof:

Section 106.6.2 Fee Schedule. The Plumbing Fee Schedule has been deleted from this section and moved to Title 5, Chapter 5.

- (5) Sections 108.4 and 108.5 are deleted in their entirety.
- (6) Section 109. Means of Appeal, is amended by deleting said section in its entirety, and substituting in lieu thereof the following:

Section 109. Board of Adjustments & Appeals. The Construction Board of Adjustments and Appeals for the Town of Signal Mountain as established by § 12-605, Signal Mountain Town Code, shall act as the Construction Board of Adjustments and Appeals for appeals from any decision of the Building Official or his designee and consider variances of the technical codes as provided in this Code.

(7) Section 305.4.1. is amended by deleting said section in its entirety and substituting in lieu thereof the following:

Section 305.4.1. Sewer Depth, is amended by substituting the words "Twelve (12) inches" for the phrase "[NUMBER] inches (mm)" wherever such phrase appears within the subsection.

(8) Section 310 is amended as follows:

Section 310. Washroom and toilet room requirements is amended by adding a new Section 310.4 which states as follows:

310.4 Urinal privacy. Each urinal utilized by the public or employees shall occupy a separate area with walls or partitions to provide privacy. The construction of such walls or partitions shall incorporate waterproof, smooth, readily cleanable and nonabsorbent finish surfaces. The walls or partitions shall begin at a height not more than 12 inches (304.8 mm) from and extend not less than 60 inches (1524 mm) above the finished floor surface. The walls or partitions shall extend from the wall surface at each side of the urinal a minimum of 18 inches (457 mm) or to a point not less than 6 inches (152 mm) beyond the outermost front lip of the urinal measured from the finished back wall surface, whichever is greater.

(9) Section 903.1 is deleted in its entirety and substituting in lieu thereof the following:

Section 903.1. Roof Extension, is amended by substituting the words "Six (6) inches" for the phrase "[NUMBER] inches (mm)" wherever such phrase appears within this subsection.

(10) Section 918 is amended as follows:

Section 918. Air Admittance Valves for Venting Plumbing Fixtures and Fixture Branches, is amended by adding a new Section 918.9 which shall read as follows:

918.9. Any use of air admittance valves on fixture branches is subject to the discretion and approval of the "Building Official." (1985 Code, § 4-203, as replaced by Ord. #2005-10, Oct. 2005, Ord. #2010-23, Nov. 2010, and Ord. #2020-12, Sept. 2020 *Ch20_06-28-21*)

- 12-204. Reinspection and correction of defects. Any work which fails initial inspection shall be subject to reinspection including fees associated with reinspection per title 5, chapter 5, 507(c). (1985 Code, § 4-204, as replaced by Ord. #2020-12, Sept. 2020 *Ch20_06-28-21*)
- 12-205. <u>Violations and penalties</u>. Any person who shall violate or fail to comply with any of the provisions of this chapter will be subject to citation to appear before the administrative hearing officer. Upon determining that a violation does exist, the hearing officer has the authority to levy a fine in accordance with § 12-1108 of the Signal Mountain Municipal Code. For violations occurring upon residential property a hearing officer has the authority to levy a fine upon the violator not to exceed five hundred dollars (\$500.00) per violation. For violations occurring upon non-residential property, a hearing officer has the authority to levy a fine upon the violator not to exceed five hundred dollars (\$500.00) per violation per day. Any fine levied by a hearing officer must be reasonable based upon the totality of the circumstances. (1985 Code, § 4-205, as replaced by Ord. #2020-12, Sept. 2020 *Ch20_06-28-21*)
- 12-206. <u>Stop work orders</u>. Upon notice from the code official, any work that is being done contrary to the provisions of this code or in a dangerous or unsafe manner shall immediately cease. Such notice shall be in writing and shall be given to the owner of the property, or to the owner's agent, or to the

person doing the work. The notice shall state the conditions under which work is authorized to resume. Where an emergency exists, the code official shall not be required to give a written notice prior to stopping the work. Any person who shall continue any work in or about the structure after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, will be subject to citation to appear before the administrative hearing officer. (as added by Ord. #2020-12, Sept. 2020 *Ch20_06-28-21*)

MECHANICAL CODE

SECTION

- 12-301. Mechanical code adopted.
- 12-302. Appendices to the code adopted.
- 12-303. Amendments to code adopted.
- 12-304. Reinspection and correction of defects.
- 12-305. Violations and penalties.
- 12-306. Stop work orders.
- 12-301. <u>Mechanical code adopted</u>. The <u>International Mechanical Code</u>, 2018 edition, one (1) copy of which is, and has been, on file in the office of the town recorder for more than fifteen (15) days, is hereby adopted as the official mechanical code of the town. (1985 Code, § 4-501), as replaced by Ord. #2020-13, Sept. 2020 *Ch20_06-28-21*)
- 12-302. <u>Appendices to the code adopted</u>. The following appendices to the <u>International Mechanical Code</u>, 2018 edition, and as further amended in this chapter, are hereby adopted as part of the official mechanical code of the town.

Appendix A - Chimney Connection Pass-Through. (1985 Code, § 4-502, as replaced by Ord. #2020-13, Sept. 2020 *Ch20_06-28-21*)

- 12-303. <u>Amendments to code adopted</u>. The following sections and appendices of the <u>International Mechanical Code</u>, 2018 edition, are hereby amended, as hereinafter provided:
 - (1) Section 101.1 is amended as follows:

 Section 101.1 Title. These regulations shall be known as the
 International Mechanical Code of the Town of Signal Mountain
 hereinafter referred to as "this code."
 - (2) Section 106.1 is amended as follows:
 106.1 When required. Any licensed contractor who desires to erect, install, enlarge, alter, repair, remove, convert or replace a mechanical system, the installation of which is regulated by this code, or to cause such work to be done, shall first make application to the code official and obtain the required permit for the work.
 - (3) Section 106.3 is amended as follows:

 Section 106.3 Application for permit. Each application for a permit, with the required fee, shall be filed with the code official on a form furnished for that purpose and shall contain a general description of the proposed work and its location. The application shall be signed by the licensed contractor. The application shall indicate the proposed occupancy of all parts of the building and of that

portion of the site or lot, if any, not covered by the building or structure and shall contain such other information required by the code official.

- (4) Section 106.5.2 is amended as follows: Section 106.5.2 Fee Schedule. The fees for all mechanical work shall be as indicated in the following schedule:
- (5) Section 106.4.3 and 106.4.4 are deleted in their entirety and the following language is substituted in lieu thereof:

Fee Schedule has been deleted from this section and moved to Title 5, Chapter 5

Section 106.4.3 Expiration. Every permit issued by the code official under the provisions of this code shall expire by limitation and become null and void if the work authorized by such permit is not commenced within 180 days from the date of such permit, or if the work authorized by such permit is suspended or abandoned at any time after the work is commenced for a period of 180 days. Before such work can be recommenced, a new permit shall be first obtained. (delete the rest)

Section 106.4.4 Extensions. Any permittee holding an unexpired permit shall have the right to apply for an extension of the time within which the permittee will commence work under that permit when work is unable to commence within the time required by this section for good and satisfactory reasons. The code official shall extend the time for action by the permittee for a period not exceeding 180 days if there is reasonable cause. No permit shall be extended more than once. (delete the rest)

- (6) Section 106.5.3 is deleted in its entirety.
- (7) Sections 108.4 and 108.5 are deleted in their entirety.
- (8) Section 109. Means of Appeal, is amended by deleting said section in its entirety, and substituting in lieu thereof the following:

Section 109. Board of Adjustments & Appeals. The Signal Mountain Construction Board of Adjustments & Appeals set forth at Title 12, Chapter 10, §§ 12-1001 through 12-1006, shall be the appeals board for the Building, Electrical, Fire, Fuel Gas, Life Safety, Mechanical and Plumbing Codes of the Town of Signal Mountain and shall act as the Board of Adjustments and Appeals for appeals from any decision of the Building Official or his designee and consider variances of the technical codes as provided in this Code. (1985 Code, § 4-503, as amended by Ord. #93-7, § 1, May 1993, and replaced by Ord. #2020-13, Sept. 2020 *Ch20_06-28-21*)

12-304. Reinspection and correction of defects. Any work which fails initial inspection shall be subject to reinspection including fees associated with

reinspection per title 5, chapter 5, 507(c). (1985 Code, § 4-504, as replaced by Ord. #2020-13, Sept. 2020 *Ch20_06-28-21*)

12-305. <u>Violations and penalties</u>. Any person who shall violate or fail to comply with any of the provisions of this chapter will be subject to citation to appear before the administrative hearing officer. Upon determining that a violation does exist, the hearing officer has the authority to levy a fine in accordance with § 12-1108 of the Signal Mountain Municipal Code. For violations occurring upon residential property a hearing officer has the authority to levy a fine upon the violator not to exceed five hundred dollars (\$500.00) per violation. For violations occurring upon non-residential property a hearing officer has the authority to levy a fine upon the violator not to exceed five hundred dollars (\$500.00) per violation per day. Any fine levied by a hearing officer must be reasonable based upon the totality of the circumstances. (1985 Code, § 4-505, as replaced by Ord. #2020-13, Sept. 2020 *Ch20 06-28-21*)

12-306. Stop work orders. Upon notice from the code official, any work that is being done contrary to the provisions of this code or in a dangerous or unsafe manner shall immediately cease. Such notice shall be in writing and shall be given to the owner of the property, or to the owner's agent, or to the person doing the work. The notice shall state the conditions under which work is authorized to resume. Where an emergency exists, the code official shall not be required to give a written notice prior to stopping the work. Any person who shall continue any work in or about the structure after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, will be subject to citation to appear before the administrative hearing officer. (1985 Code, § 4-506, as replaced by Ord. #2020-13, Sept. 2020 *Ch20_06-28-21*)

GAS CODE

SECTION

- 12-401. Gas code adopted.
- 12-402. Appendices to the code adopted.
- 12-403. Amendments to code adopted.
- 12-404. Reinspection and correction of defects.
- 12-405. Violations and penalties.
- 12-406. Stop work orders.
- 12-407. Fee schedules.
- 12-401. <u>Gas code adopted</u>. The <u>International Fuel Gas Code</u>, 2018 Edition, one (1) copy of which is, and has been, on file in the office of the town recorder for more than fifteen (15) days, is hereby adopted as the official gas code of the town. (as added by ord. No. 91-6, and replaced by Ord. #2020-14, Sept. 2020 *Ch20_06-28-21*)
- 12-402. <u>Appendices to the code adopted</u>. The following appendices to the <u>International Fuel Gas Code</u>, 2018 Edition, and as further amended in this chapter, are hereby adopted as part of the official gas code of the town.

Appendix A - Sizing and capacities of gas piping.

Appendix B - Sizing of venting systems.

Appendix C - Exit terminals, et al. (1985 Code, § 4-402, as replaced by Ord. #2005-11, Oct. 2005, Ord. #2010-22, Nov. 2010, and Ord. #2020-14, Sept. 2020 *Ch20_06-28-21*)

- 12-403. <u>Amendments to code adopted</u>. The following sections and appendices of the <u>International Fuel Gas Code</u>, 2018 edition, are hereby amended, as hereinafter provided:
- (1) Section 101.1 and 101.2 are deleted in their entirety and the following language is substituted in lieu thereof:

Section 101.1 Title. These regulations shall be known as the International Fuel Gas Code of the Town of Signal Mountain, hereinafter referred to as "this code."

(2) Section 106.3 is deleted in its entirety and the following language is substituted in lieu thereof:

Section 106.3 Application for permit. Each application for a permit, with the required fee, shall be filed with the code official on a form furnished for that purpose and shall contain a general description of the proposed work and its location. The application shall be signed by the licensed contractor. The application shall indicate the proposed occupancy of all parts of the building and of that portion of the site or lot, if any, not covered by the building or structure and shall contain such other information required by the code official.

(3) Sections 106.5.3 and 106.5.4 are deleted in their entirety and the following is substituted in lieu thereof:

Section 106.5.3 Expiration. Every permit issued by the code official under the provisions of this code shall expire by limitation and become null and void if the work authorized by such permit is not commenced within 180 days from the date of such permit, or if the work authorized by such permit is suspended or abandoned at any time after the work is commenced for a period of 180 days. Before such work can be recommenced, a new permit shall be first obtained. (delete the rest) Section 106.5.4 Extensions. Any permittee holding an unexpired permit shall have the right to apply for an extension of the time within which the permittee will commence work under that permit when work is unable to commenced within the time required by this section for good and satisfactory reasons. The code official shall extend the time for action by the permittee for a period not exceeding 180 days if there is reasonable cause. No permit shall be extended more than once. (delete the rest)

- (4) Sections 108.4 and 108.5 are amended by deleted said sections in their entirety.
- (5) Section 109. Means of Appeal, is amended by deleting said section in its entirety, and substituting in lieu thereof the following:

Section 109.1 Board of Adjustments & Appeals. The Construction Board of Appeals for the Building, Electrical, Fire, Fuel Gas, Life Safety, Mechanical and Plumbing Codes of Section 12-605 of the Signal Mountain Town Code, shall act as the Construction Board of Adjustments and Appeals for appeals from any decision of the Building Official or his designee and consider variances of the technical codes as provided in this Code. (1985 Code, § 4-602, and replaced by Ord. #2020-14, Sept. 2020 *Ch20_06-28-21*)

- 12-404. <u>Reinspection and correction of defects</u>. Any work which fails initial inspection shall be subject to reinspection including fees associated with reinspection per title 5, chapter 5, 507(c). (1985 Code, § 4-603, as replaced by Ord. #2020-14, Sept. 2020 *Ch20_06-28-21*)
- 12-405. <u>Violations and penalties</u>. Any person who shall violate or fail to comply with any of the provisions of this chapter will be subject to citation to appear before the administrative hearing officer. Upon determining that a violation does exist, the hearing officer has the authority to levy a fine in accordance with § 12-1108 of the Signal Mountain Municipal Code. For violations occurring upon residential property, a hearing officer has the authority to levy a fine upon the violator not to exceed five hundred dollars (\$500.00) per violation. For violations occurring upon non-residential property,

a hearing officer has the authority to levy a fine upon the violator not to exceed five hundred dollars (\$500.00) per violation per day. Any fine levied by a hearing officer must be reasonable based upon the totality of the circumstances. (1985 Code, § 4-604, as replaced by Ord. #2020-14, Sept. 2020 *Ch20_06-28-21*)

12-406. Stop work orders. Upon notice from the code official, any work that is being done contrary to the provisions of this code or in a dangerous or unsafe manner shall immediately cease. Such notice shall be in writing and shall be given to the owner of the property, or to the owner's agent, or to the person doing the work. The notice shall state the conditions under which work is authorized to resume. Where an emergency exists, the code official shall not be required to give a written notice prior to stopping the work. Any person who shall continue any work in or about the structure after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, will be subject to citation to appear before the administrative hearing officer. (1985 Code, § 4-506, as replaced by Ord. #2020-14, Sept. 2020 *Ch20_06-28-21*)

12-407. <u>Fee schedules</u>. Gas fee schedule has been deleted from this section and moved to title 5, chapter 5. (as added by Ord. #2020-14, Sept. 2020 $Ch20_06-28-21$)

ENERGY CONSERVATION CODE

- 12-501. Energy conservation code adopted.
- 12-502. Appendices to the code adopted.
- 12-503. Amendments to 2009 code adopted.
- 12-504. Amendments to 2012 code adopted.
- 12-505. Reinspection and correction of defects.
- 12-506. Violations and penalties.
- 12-507. Stop work orders.
- 12-501. Energy conservation code adopted. The International Energy Conservation Code, 2009 edition for one (1) and two (2) family dwellings and townhomes and 2012 edition for commercial buildings, one (1) copy of which is, and has been, on file in the office of the town recorder for more than fifteen (15) days, is hereby adopted as the official energy conservation code of the Town of Signal Mountain. (Ord. # 88-4, May 1988, as replaced by Ord. #2005-9, Oct. 2005, Ord. #2010-24, Nov. 2010, and Ord. #2020-15, Sept. 2020 *Ch20_06-28-21*)
- 12-502. <u>Appendices to the code adopted</u>. There are no appendices to the international energy conservation codes currently as amended in this chapter. (Ord. # 88-4, May 1988, as replaced by Ord. #2005-9, Oct. 2005, Ord. #2010-24, Nov. 2010, and Ord. #2020-15, Sept. 2020 *Ch20_06-28-21*)
- 12-503. <u>Amendments to code 2009 adopted</u>. The following sections and appendices of the <u>International Energy Conservation Code</u>, 2009 edition are hereby amended, as hereinafter provided:
- (1) International Energy Conservation Code (IECC), 2009 edition, published by the International Code Council, Inc., (ICC), except for:
 - (a) Section 402.4.2.1, Testing option; and
 - (b) Section 403.2.2, Sealing Mandatory.
- (2) IECC, Table N1102.1, Insulation and Fenestration Requirements by Component, is amended by adding the following as footnote "l": "Log walls complying with ICC400 and with a minimum average wall thickness of 5" or greater shall be permitted in Zone 3 when a Fenestration U-Factor of .50 or lower is used, a Skylight U-Factor of .65 or lower is used, a Glazed Fenestration SHGC of .30 or lower is used, a 90 AFUE Furnace is used, an 85 AFUE Boiler is used, and a 9.0 HSPF Heat Pump (heating) and 15 SEER (cooling) are used.
- (3) IECC, Table N1102.1, Insulation and Fenestration Requirements by Component, is amended by adding the following as footnote "m": "Log walls complying with ICC400 and with a minimum average wall thickness of 5" or greater shall be permitted in Zone 4 when a Fenestration U-Factor of .35 or

lower is used, a Skylight U-Factor of .60 or lower is used, a 90 AFUE Furnace is used, an 85 AFUE Boiler is used, and a 9.0 HSPF Heat Pump (heating) and 15 SEER (cooling) are used. (Ord. # 88-4, May 1988, as replaced by Ord. #2005-9, Oct. 2005, Ord. #2010-24, Nov. 2010, and Ord. #2020-15, Sept. 2020 Ch20 06-28-21)

12-504. <u>Amendments to code 2012 adopted</u>. The following sections and appendices of the <u>International Energy Conservation Code</u>, 2012 edition, are hereby amended, as hereinafter provided:

The International Energy Conservation Code (IECC), 2012 edition, published by the International Code Council (ICC), except that the provisions of the International Energy Conservation Code, 2006 edition, shall apply to the following occupancy classifications as defined by the International Building Code (IBC), 2012 edition:

- (1) Moderate-hazard factory industrial, Group F-1;
- (2) Low-hazard factory industrial, Group F-2;
- (3) Moderate-hazard storage, Group S-1; and
- (4) Low-hazard storage, Group S-2. (as added by Ord. #2020-15, Sept. 2020 $\it Ch20_06$ -28-21)
- 12-505. <u>Reinspection and correction of defects</u>. Any work which fails initial inspection shall be subject to reinspection including fees associated with reinspection per title 5, chapter 5, section 507(c). (as added by Ord. #2020-15, Sept. 2020 *Ch20_06-28-21*)
- 12-506. <u>Violations and penalties</u>. Any person who shall violate or fail to comply with any of the provisions of this chapter will be subject to citation to appear before the administrative hearing officer. Upon determining that a violation does exist, the hearing officer has the authority to levy a fine in accordance with § 12-1108 of the Signal Mountain Municipal Code. For violations occurring upon residential property, a hearing officer has the authority to levy a fine upon the violator not to exceed five hundred dollars (\$500.00) per violation. For violations occurring upon non-residential property a hearing officer has the authority to levy a fine upon the violator not to exceed five hundred dollars (\$500.00) per violation per day. Any fine levied by a hearing officer must be reasonable based upon the totality of the circumstances. (as added by Ord. #2020-15, Sept. 2020 *Ch20_06-28-21*)
- 12-507. Stop work orders. Upon notice from the code official, any work that is being done contrary to the provisions of this code or in a dangerous or unsafe manner shall immediately cease. Such notice shall be in writing and shall be given to the owner of the property, or to the owner's agent, or to the person doing the work. The notice shall state the conditions under which work is authorized to resume. Where an emergency exists, the code official shall not

be required to give a written notice prior to stopping the work. Any person who shall continue any work in or about the structure after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, will be subject to citation to appear before the administrative hearing officer. (as added by Ord. #2020-15, Sept. 2020 *Ch20_06-28-21*)

ELECTRICAL CODE

- 12-601. Code adopted.
- 12-602. Amendments to the code adopted.
- 12-603. Electrical permits.
- 12-604. Temporary permission to use current.
- 12-605. Reinspection and correction of defects.
- 12-606. Violations and penalties.
- 12-607. Stop work orders.
- 12-608. Fee schedule.
- 12-601. <u>Code adopted</u>. The <u>National Electrical Code</u>, 2017 edition (NFPA 70: National Electrical Code, International Electrical Code Series) is hereby adopted as the official electrical code of the town. Such code is adopted by reference pursuant to the provisions of <u>Tennessee Code Annotated</u>, § 6-54-501 through § 6-54-506. All tables and examples included in the <u>National Electrical Code</u>, 2017 edition, are adopted by the Town of Signal Mountain except as amended by § 12-602. The provisions of such <u>National Electrical Code</u> shall be in full force and effect to the same extent as if such provisions were copied verbatim herein. (1985 Code, § 4-701, as replaced by Ord. #2005-7, Sept. 2005, and Ord. #2020-16, Sept. 2020 *Ch20_06-28-21*)
- 12-602. <u>Amendments to the code adopted</u>. The following sections of the <u>National Electrical Code</u>, 2017 edition, are hereby amended, as hereinafter approved:
 - (1) Sections 110.24 Available Fault Current shall be optional.
- (2) Arc Fault Circuit Interrupters (AFCIs) shall be optional for bathrooms, laundry areas, garages, unfinished basements, which are portions or areas of the basement not intended as habitable rooms and limited to storage, work or similar area, and for the branch circuits dedicated to supplying refrigeration equipment.
- (3) Sections 210.52C(2) and (3) are deleted in their entirety and Section 210.52C(5), all reference to the paragraph entitled "Exception" is deleted in its entirety.
- (4) "Electric fences" consisting of an above ground electrically charged conductor or other above ground electrically charged device intended to enclose or restrict persons or animals by electric shock shall not be installed or used regardless of its source of supply within the Town. (1985 Code, § 4-702, as replaced by Ord. #2005-7, Oct. 2005, and Ord. #2020-16, Sept. 2020 *Ch20_06-28-21*)

- 12-603. <u>Electrical permits</u>. (1) <u>Required</u>. No alteration or change shall be made in the wiring of any building or premises, nor shall any building or premises be wired for the placing of electric lights, motors, signs or devices, without first securing from the electrical inspector or building official, a permit therefor. No change shall be made in the electric installation after inspection without notifying the electrical inspector and securing a permit therefor.
- (2) <u>Application</u>. A permit required by this chapter shall be issued only upon written application therefor to the town. All applications for permits shall be made by and in the name of the licensed electrical contractor undertaking to do the work proposed and also in the name of the person with whom or by whom the contractor is associated or employed. (1985 Code, § 4-703, as replaced by Ord. #2005-7, Oct. 2005, and Ord. #2020-16, Sept. 2020 *Ch20_06-28-21*)
- 12-604. <u>Temporary permission to use current</u>. The electrical inspector may, in his discretion, give temporary permission for a reasonable time, to supply and use current in part of an electrical installation before such installation has been fully completed and the certificate issued. (1985 Code, § 4-704, as replaced by Ord. #2005-7, Oct. 2005, and Ord. #2020-16, Sept. 2020 *Ch20_06-28-21*)
- 12-605. Reinspection and correction of defects. Any work which fails initial inspection shall be subject to reinspection including fees associated with reinspection per title 5, chapter 5, section 507(c). (1985 Code, § 4-705, as replaced by Ord. #2005-7, Oct. 2005, and Ord. #2020-16, Sept. 2020 *Ch20_06-28-21*)
- 12-606. <u>Violations and penalties</u>. Any person who shall violate or fail to comply with any of the provisions of this chapter will be subject to citation to appear before the administrative hearing officer. Upon determining that a violation does exist, the hearing officer has the authority to levy a fine in accordance with § 12-1108 of the Signal Mountain Municipal Code. For violations occurring upon residential property, a hearing officer has the authority to levy a fine upon the violator not to exceed five hundred dollars (\$500.00) per violation. For violations occurring upon non-residential property, a hearing officer has the authority to levy a fine upon the violator not to exceed five hundred dollars (\$500.00) per violation per day. Any fine levied by a hearing officer must be reasonable based upon the totality of the circumstances. (1985 Code, § 4-706, as replaced by Ord. #2005-7, Oct. 2005, and Ord. #2020-16, Sept. 2020 *Ch20 06-28-21*)
- 12-607. Stop work orders. Upon notice from the code official, any work that is being done contrary to the provisions of this code or in a dangerous or unsafe manner shall immediately cease. Such notice shall be in writing and shall be given to the owner of the property, or to the owner's agent, or to the

person doing the work. The notice shall state the conditions under which work is authorized to resume. Where an emergency exists, the code official shall not be required to give a written notice prior to stopping the work. Any person who shall continue any work in or about the structure after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, will be subject to citation to appear before the administrative hearing officer. (as added by Ord. #2020-16, Sept. 2020 *Ch20_06-28-21*)

12-608. <u>Fee schedule</u>. Fee schedule is located in title 5, chapter 5, § 5-512. (as added by Ord. #2020-16, Sept. 2020 *Ch20_06-28-21*)

SWIMMING POOL CODE

- 12-701. Swimming pool code adopted.
- 12-702. Definitions.
- 12-703. Building permit required.
- 12-704. Electrical permit required.
- 12-705. Final inspection; enclosure.
- 12-706. Reinspection and correction of defects.
- 12-707. Violations and penalty.
- 12-708. Stop work orders.
- 12-709. Fee schedule.
- 12-701. Swimming pool code adopted. The International Swimming Pool and Spa Code, 2018 edition, one (1) copy of which is, and has been on file in the office of the town recorder for more than fifteen (15) days, is hereby adopted as the official swimming pool code of the Town of Signal Mountain. (Ord. # 87-4, as replaced by Ord. #2020-17, Sept. 2020 *Ch20_06-28-21*)
- 12-702. <u>Definitions</u>. 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 feet (2') intended for the purpose of immersion or partial immersion therein. (Ord. # 87-4, as replaced by Ord. #2020-17, Sept. 2020 *Ch20_06-28-21*)
- 12-703. <u>Building permit required</u>. 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 of Signal Mountain. (Ord. # 87-4, as replaced by Ord. #2020-17, Sept. 2020 *Ch20_06-28-21*)
- 12-704. <u>Electrical permit required</u>. No public or private swimming pool installations, alterations, or repair work shall be commenced until an electrical permit shall first have been obtained from the Town of Signal Mountain. (1985 Code, § 4-603, as replaced by Ord. #2020-17, Sept. 2020 *Ch20_06-28-21*)
- 12-705. <u>Final inspection; enclosure</u>. (1) Swimming pools shall not be filled with water until a temporary fence or permanent fence and gates have been approved by the building inspector.
- (2) For the safety of others, before final inspection, the pool shall be completely enclosed with a wall, permanent 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.
- (3) Private swimming pool installations must be complete, completely filled with water and in operation before final inspection. (as added by Ord. #2020-17, Sept. 2020 *Ch20 06-28-21*)
- 12-706. <u>Reinspection and correction of defects</u>. Any work which fails initial inspection shall be subject to reinspection including fees associated with reinspection per title 5, chapter 5, section 507(c). (as added by Ord. #2020-17, Sept. 2020 *Ch20_06-28-21*)
- 12-707. <u>Violations and penalty</u>. Any person who shall violate or fail to comply with any of the provisions of this chapter will be subject to citation to appear before the administrative hearing officer. Upon determining that a violation does exist, the hearing officer has the authority to levy a fine in accordance with § 12-1108 of the Signal Mountain Municipal Code. For violations occurring upon residential property, a hearing officer has the authority to levy a fine upon the violator not to exceed five hundred dollars (\$500.00) per violation. For violations occurring upon non-residential property, a hearing officer has the authority to levy a fine upon the violator not to exceed five hundred dollars (\$500.00) per violation per day. Any fine levied by a hearing officer must be reasonable based upon the totality of the circumstances. (as added by Ord. #2020-17, Sept. 2020 *Ch20_06-28-21*)
- 12-708. Stop work orders. Upon notice from the code official, any work that is being done contrary to the provisions of this code or in a dangerous or unsafe manner shall immediately cease. Such notice shall be in writing and shall be given to the owner of the property, or to the owner's agent, or to the person doing the work. The notice shall state the conditions under which work is authorized to resume. Where an emergency exists, the code official shall not be required to give a written notice prior to stopping the work. Any person who shall continue any work in or about the structure after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, will be subject to citation to appear before the administrative hearing officer. (as added by Ord. #2020-17, Sept. 2020 *Ch20_06-28-21*)
- 12-709. <u>Fee schedule</u>. The swimming pool fee schedule is located in title 5, chapter 5. (as added by Ord. #2020-17, Sept. 2020 *Ch20_06-28-21*)

UNSAFE BUILDING CODE

- 12-801. Declared to be a nuisance.
- 12-802. Condemnation board created; composition; qualifications of members.
- 12-803. Notice to take remedial action.
- 12-804. Unlawful rental or occupancy of premises.
- 12-805. Hearings on order of condemnation board.
- 12-806. Action by the town upon failure of owner to comply with order.
- 12-807. Reinspection and correction of defects.
- 12-808. Violations and penalties.
- 12-809. Stop work orders.
- 12-810-12-817. Deleted.
- 12-801. <u>Declared to be a nuisance</u>. Any building or structure in the town which, because of its disrepair or dangerous condition is a menace to the health, safety and the convenience of the public, is declared to be a nuisance. (as added by Ord. #2013-03, Jan. 2013, amended by Ord. #2019-07, June 2019 *Ch19_8-26-19*, and replaced by Ord. #2020-18, Sept. 2020 *Ch20_06-28-21*)
- 12-802. <u>Condemnation board created; composition; qualifications of members</u>. A board is hereby created to be known as the condemnation board and which shall consist of the chief of the fire department and two (2) residents and taxpayers of the town, one (1) of which members shall be in the real estate business and one (1) of which members shall be in the insurance business. (as added by Ord. #2013-03, Jan. 2013, and replaced by Ord. #2020-18, Sept. 2020 *Ch20_06-28-21*)
- 12-803. Notice to take remedial action. (1) When the condemnation board is notified that any building or structure in the town is, on account of its condition, a menace to health, safety or the public convenience, the board may enter the premises and shall make an immediate investigation and if such building or structure is in a dangerous condition, the board shall serve an order on the owner thereof to repair the building or structure in conformity with the building, plumbing, electrical, gas, housing and other similar codes of the town relating to buildings, or to demolish it.
- (2) If the owner of any building or structure ordered to be repaired or demolished is a non-resident of the town, the notice required by subsection (1) may be served upon his agent and, if he has no agent in the town, the notice may be served by registered mail and sent the owner at his last known post office address. (as added by Ord. #2013-03, Jan. 2013, and replaced by Ord. #2020-18, Sept. 2020 *Ch20_06-28-21*)

- 12-804. <u>Unlawful rental or occupancy of premises</u>. It shall be unlawful for any owner of any building or structure to rent the building or structure, after issuance of an order of condemnation by the condemnation board pursuant to this chapter. (as added by Ord. #2013-03, Jan. 2013, and replaced by Ord. #2020-18, Sept. 2020 *Ch20 06-28-21*)
- 12-805. Hearing on order of condemnation board. (1) If, within ten (10) days after the service of a notice to take remedial action given pursuant to this chapter, the building or structure has not been repaired or demolished in compliance with the notice, the condemnation board shall serve a notice upon the owner to appear before the mayor and the town council at a certain time, not less than ten (10) nor more than fifteen (15) days from the date of service of the notice for hearing.
- (2) At the time fixed in the notice served by the condemnation board pursuant to subsection (1), the owner so notified shall appear before the mayor and town council. At the hearing, the condemnation board shall present the facts concerning the condition of the building or structure and the owner may present evidence and shall be entitled to be represented by counsel if he so desires.
- (3) If, after hearing all the facts, the mayor and town council is of the opinion that a building or structure is a menace to health and safety, it shall order the building or structure repaired if its condition will permit and the owner so desires, or demolished. The mayor and town council shall give the owner not less than ten (10) days to comply with the order and it shall be unlawful for the owner to fail to comply therewith. (as added by Ord. #2013-03, Jan. 2013, and replaced by Ord. #2020-18, Sept. 2020 *Ch20_06-28-21*)
- 12-806. Action by the town upon failure of owner to comply with order. (1) If, at the expiration of the time given an owner for the repair or demolition of a dangerous building or structure by order of the mayor and town council, the owner has failed to comply with the order of the town council, the condemnation board shall have the necessary repairs made or have the building or structure demolished and charge the expense thereof to the owner of the building or structure.
- (2) When any nuisance has been abated as provided in subsection (1), the condemnation board shall certify the amount of expense incurred in abating the nuisance to the town council, direct the town attorney to bring suit by attachment or otherwise, to collect the costs and the town shall have a lien on the property to secure the amount expended by it in abating the nuisance, which lien shall be superior to all other contractual liens. (as added by Ord. #2013-03, Jan. 2013, and replaced by Ord. #2020-18, Sept. 2020 *Ch20_06-28-21*)

12-807. <u>Reinspection and correction of defects</u>. Any work which fails initial inspection shall be subject to reinspection including fees associated with reinspection per title 5, chapter 5, section 507(c). (as added by Ord. #2013-03, Jan. 2013, and replaced by Ord. #2020-18, Sept. 2020 *Ch20_06-28-21*)

12-808. <u>Violations and penalties</u>. Any person who shall violate or fail to comply with any of the provisions of this chapter will be subject to citation to appear before the administrative hearing officer. Upon determining that a violation does exist, the hearing officer has the authority to levy a fine in accordance with § 12-1108 of the Signal Mountain Municipal Code. For violations occurring upon residential property, a hearing officer has the authority to levy a fine upon the violator not to exceed five hundred dollars (\$500.00) per violation. For violations occurring upon non-residential property a hearing officer has the authority to levy a fine upon the violator not to exceed five hundred dollars (\$500.00) per violation per day. Any fine levied by a hearing officer must be reasonable based upon the totality of the circumstances. (as added by Ord. #2013-03, Jan. 2013, and replaced by Ord. #2020-18, Sept. 2020 *Ch20_06-28-21*)

12-809. Stop work orders. Upon notice from the code official, any work that is being done contrary to the provisions of this code or in a dangerous or unsafe manner shall immediately cease. Such notice shall be in writing and shall be given to the owner of the property, or to the owner's agent, or to the person doing the work. The notice shall state the conditions under which work is authorized to resume. Where an emergency exists, the code official shall not be required to give a written notice prior to stopping the work. Any person who shall continue any work in or about the structure after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, will be subject to citation to appear before the administrative hearing officer. (as added by Ord. #2013-03, Jan. 2013, and replaced by Ord. #2020-18, Sept. 2020 *Ch20 06-28-21*)

12-810–12-817. [Deleted]. (as deleted by Ord. #2020-18, Sept. 2020 ${\it Ch20_06\text{-}28\text{-}21}$)

SITE PREPARATION, EXCAVATION AND GRADING CODE

- 12-901. Creation.
- 12-902. Land disturbance permit required.
- 12-903. Hazards.
- 12-904. Application.
- 12-905. Reinspection and correction of defects.
- 12-906. Violations and penalties.
- 12-907. Stop work orders.
- 12-908. Fee schedule.
- 12-901. <u>Creation</u>. There is hereby created and established a site preparation, excavation and grading code for the Town of Signal Mountain. (as added by Ord. #2020-19, Sept. 2020 *Ch20_06-28-21*)
- 12-902. <u>Land disturbance permit required</u>. No person shall do any site preparation, stump removal, filling, excavation or grading without obtaining a land disturbance permit for said work. This shall also include site preparation for footings, foundation work and any ground work being performed in conjunction with construction authorized by a building permit and set out in the building permit so obtained. (as added by Ord. #2020-19, Sept. 2020 *Ch20 06-28-21*)
- 12-903. <u>Hazards</u>. Whenever the building official determines that any existing excavation, embankment or fill on private property has become a hazard to life or property, or adversely affects the safety, use, or stability of a public way of drainage channel, the owner of the property upon which the excavation or fill is located or such other person or agent in control of said property, upon receipt of notice in writing from the building official, shall within the time period specified thereon repair or eliminate such hazard and to otherwise conform with the specifications and requirements of this code. (as added by Ord. #2020-19, Sept. 2020 *Ch20 06-28-21*)
- 12-904. <u>Application</u>. To obtain a permit, the applicant shall first file an application therefor in writing on a form furnished by the Town of Signal Mountain for that purpose. Every application shall:
- (1) Identify and describe the work to be covered by the permit for which application is made.
- (2) Describe the location of the land where the proposed work is to be done including parcel number, subdivision and lot number.
 - (3) State the estimated quantities of work to be performed.

- (4) Give such other information as reasonably may be required by the building official and or stormwater manager. (as added by Ord. #2020-19, Sept. 2020 *Ch20_06-28-21*)
- 12-905. <u>Reinspection and correction of defects</u>. Any work which fails initial inspection shall be subject to reinspection including fees associated with reinspection per title 5, chapter 5, section 507(c). (as added by Ord. #2020-19, Sept. 2020 *Ch20_06-28-21*)
- 12-906. <u>Violations and penalties</u>. Any person who shall violate or fail to comply with any of the provisions of this chapter will be subject to citation to appear before the administrative hearing officer. Upon determining that a violation does exist, the hearing officer has the authority to levy a fine in accordance with § 12-1108 of the Signal Mountain Municipal Code. For violations occurring upon residential property, a hearing officer has the authority to levy a fine upon the violator not to exceed five hundred dollars (\$500.00) per violation. For violations occurring upon non-residential property, a hearing officer has the authority to levy a fine upon the violator not to exceed five hundred dollars (\$500.00) per violation per day. Any fine levied by a hearing officer must be reasonable based upon the totality of the circumstances. (as added by Ord. #2020-19, Sept. 2020 *Ch20_06-28-21*)
- 12-907. Stop work orders. Upon notice from the code official, any work that is being done contrary to the provisions of this code or in a dangerous or unsafe manner shall immediately cease. Such notice shall be in writing and shall be given to the owner of the property, or to the owner's agent, or to the person doing the work. The notice shall state the conditions under which work is authorized to resume. Where an emergency exists, the code official shall not be required to give a written notice prior to stopping the work. Any person who shall continue any work in or about the structure after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, will be subject to citation to appear before the administrative hearing officer. (as added by Ord. #2020-19, Sept. 2020 *Ch20_06-28-21*)
- 12-908. Fee schedule. Fee schedule is located in title 5, chapter 5. (as added by Ord. #2020-19, Sept. 2020 $Ch20_06-28-21$)

CONSTRUCTION BOARD OF ADJUSTMENTS AND APPEALS

- 12-1001. Created.
- 12-1002. Composition; qualification of members.
- 12-1003. Appointment and terms of members.
- 12-1004. Chairman and secretary.
- 12-1005. Powers and duties generally.
- 12-1006. Appeals from determinations of the construction board.
- 12-1001. <u>Created</u>. There is hereby created a construction board of adjustments and appeals for the town. (as added by Ord. #2020-20, Sept. 2020 $Ch20_06-28-21$)
- 12-1002. <u>Composition</u>; <u>qualifications of members</u>. The construction board shall consist of seven (7) members, who shall be residents of the town, shall be active in the field of construction and shall serve without compensation. One (1) member of the board shall be a building contractor; one (1) member of the board shall be a plumbing contractor; one (1) member shall be an electrical contractor; one (1) member shall be an architect; one (1) member shall be an engineer; and one (1) member shall be a homeowner. (as added by Ord. #2020-20, Sept. 2020 *Ch20_06-28-21*)
- 12-1003. <u>Appointment and terms of members</u>. The members of the construction board shall be appointed by the town council for terms of three (3) years each. (as added by Ord. #2020-20, Sept. 2020 *Ch20 06-28-21*)
- 12-1004. <u>Chairman and secretary</u>. The construction board shall organize by electing one of its members as a chairman and one as a secretary. (as added by Ord. #2020-20, Sept. 2020 *Ch20 06-28-21*)
- 12-1005. Powers and duties generally. The construction board shall meet on call by its chairman to consider appeals from the decisions of the various enforcement officers of the various mechanical codes of the town adopted in this code or other ordinances of the town and to consider adjustments in building, fire, fuel gas, life safety, mechanical and plumbing codes adopted by the town. The board shall have the power to determine questions of administrative interpretations of the various mechanical codes of the town code, questions of the use of materials and types of construction, to hear proof of performance of new materials or materials not specifically covered in the codes and to determine the usability of such materials and safety and permanence of various types of construction. The construction board shall also have power to make

recommendations for revisions or modifications of existing building, fire, fuel gas, life safety, mechanical and plumbing codes to the town council. (as added by Ord. #2020-20, Sept. 2020 *Ch20_06-28-21*)

12-1006. <u>Appeals from determinations of the construction board</u>. Any person aggrieved by any action or decision of the construction board may appeal to the town council by requesting an appeal, in writing, within ten (10) days after the action or decision which is sought to be appealed. (as added by Ord. #2020-20, Sept. 2020 *Ch20_06-28-21*)

OFFICE OF ADMINISTRATIVE HEARING OFFICER

SECTION

- 12-1101. Municipal administrative hearing officer.
- 12-1102. Communication by administrative hearing officer and parties.
- 12-1103. Appearance by parties and/or counsel.
- 12-1104. Pre-hearing conference and orders.
- 12-1105. Appointment of administrative hearing officer/administrative law judge.
- 12-1106. Training and continuing education.
- 12-1107. Citations for violations-written notice.
- 12-1108. Review of citation--levy of fines.
- 12-1109. Party in default.
- 12-1110. Petitions for intervention.
- 12-1111. Regulating course of proceedings--hearing open to public.
- 12-1112. Evidence and affidavits.
- 12-1113. Rendering of final order.
- 12-1114. Final order effective date.
- 12-1115. Collection of fines, judgments and debts.
- 12-1116. Judicial review of final order.
- 12-1117. Appeal to court of appeals.
- 12-1101. <u>Municipal administrative hearing officer</u>. (1) In accordance with title 6, chapter 54, section 1001, <u>et seq.</u>, of the <u>Tennessee Code Annotated</u>, there is hereby created the Signal Mountain Municipal Office of Administrative Hearing Officer. The administrative hearing officer has jurisdiction to hear cases involving violations of municipal ordinances regulating zoning, building and property maintenance, including:
 - (a) Locally adopted building codes;
 - (b) Locally adopted residential codes;
 - (c) Locally adopted plumbing codes:
 - (d) Locally adopted electrical codes;
 - (e) Locally adopted gas codes;
 - (f) Locally adopted mechanical codes;
 - (g) Locally adopted energy codes;
 - (h) Locally adopted property maintenance codes;
 - (i) Locally adopted zoning codes; and
 - (j) Ordinances regulating any subject matter commonly found in the codes mentioned in subdivisions (1)(a)-(i).

The administrative hearing officer is not authorized to hear violations of codes adopted by the state fire marshal pursuant to Tennessee Code Annotated,

§ 68-120-101(a) enforced by deputy building inspector pursuant to <u>Tennessee</u> <u>Code Annotated</u>, § 68-120-101(f).

The utilization of the administrative hearing officer shall be at the discretion of the town manager and/or the town manager's designee, and shall be an alternative to the enforcement included in the Signal Mountain Municipal Code.

- (2) There is hereby created one (1) administrative hearing officer position to be appointed by the town council pursuant to § 12-1105 below.
- (3) The amount of compensation for the administrative hearing officer shall be approved annually by the town council and included in the town budget.
- (4) Clerical and administrative support for the office of administrative hearing officer shall be provided as determined by the town manager.
- (5) The administrative hearing officer shall perform all of the duties and abide by all of the requirements provided in title 6, chapter 54, section 1001, et seq., of the Tennessee Code Annotated. (as added by Ord. #2021-04, Aril 2021 *Ch20_06-28-21*)

12-1102. Communication by administrative hearing officer and parties.

- (1) Unless required for the disposition of ex parte matters specifically authorized by statute, an administrative hearing officer presiding over a contested case proceeding may not communicate, directly or indirectly, regarding any issue in the proceeding, while the proceeding is pending, with any person without notice and opportunity for all parties to participate in the communication.
- (2) Notwithstanding subsection (1), an administrative hearing officer may communicate with municipal employees or officials regarding a matter pending before the administrative body or may receive aid from staff assistants, members of the staff of the town attorney or a licensed attorney, if such persons do not receive ex parte communications of a type that the administrative hearing officer would be prohibited from receiving, and do not furnish, augment, diminish or modify the evidence in the record.
- (3) Unless required for the disposition of ex parte matters specifically authorized by statute, no party to a contested case, and no other person may communicate, directly or indirectly, in connection with any issue in that proceeding, while the proceeding is pending, with any person serving as an administrative hearing officer without notice and opportunity for all parties to participate in the communication.
- (4) If, before serving as an administrative hearing officer in a contested case, a person receives an ex parte communication of a type that may not properly be received while serving, the person, promptly after starting to serve, shall disclose the communication in the manner prescribed in subsection (5).
- (5) An administrative hearing officer who receives an ex parte communication in violation of this section shall place on the record of the pending matter all written communications received, all written responses to

the communications, and a memorandum stating the substance of all oral communications received, all responses made, and the identity of each person from whom the person received an ex parte communication, and shall advise all parties that these matters have been placed on the record. Any party desiring to rebut the ex parte communication shall be allowed to do so, upon requesting the opportunity for rebuttal within ten (10) business days after notice of the communication. (as added by Ord. #2020-21, Sept. 2020 *Ch20_06-28-21*)

- 12-1103. <u>Appearance by parties and/or counsel</u>. (1) Any party may participate in the hearing in person or, if the party is a corporation or other artificial person, by a duly authorized representative.
- (2) Whether or not participating in person, any party may be advised and represented at the party's own expense by counselor, unless prohibited by any provision of law, or other representative. (as added by Ord. #2020-21, Sept. 2020 *Ch20_06-28-21*)
 - 12-1104. <u>Pre-hearing conference and orders</u>. (1) (a) In any action set for hearing, the administrative hearing officer, upon the administrative hearing officer's own motion, or upon motion of one (1) of the parties or such party's qualified representatives, may direct the parties or the attorneys for the parties, or both, to appear before the administrative hearing officer for a conference to consider:
 - (i) The simplification of issues;
 - (ii) The possibility of obtaining admissions of fact and of documents that will avoid unnecessary proof;
 - (iii) The limitation of the number of witnesses; and
 - (iv) Such other matters as may aid in the disposition of the action.
 - (b) The administrative hearing officer shall make an order that recites the action taken at the conference, and the agreements made by the parties as to any of the matters considered, and that limits the issues for hearing to those not disposed of by admissions or agreements of the parties. Such order when entered controls the subsequent course of the action, unless modified at the hearing to prevent manifest injustice.
- (2) Upon reasonable notice to all parties, the administrative hearing officer may convene a hearing or convert a pre-hearing conference to a hearing, to be conducted by the administrative hearing officer sitting alone, to consider argument or evidence, or both, on any question of law.
- (3) In the discretion of the administrative hearing officer, all or part of the pre-hearing conference may be conducted by telephone, television or other electronic means, if each participant in the conference has an opportunity to participate in, to hear, and, if technically feasible, to see the entire proceeding while it is taking place.

- (4) If a pre-hearing conference is not held, the administrative hearing officer may issue a pre-hearing order, based on the pleadings, to regulate the conduct of the proceedings. (as added by Ord. #2020-21, Sept. 2020 *Ch20_06-28-21*)
- 12-1105. Appointment of administrative hearing officer/administrative law judge. (1) The administrative hearing officer shall be appointed by the town council for a four (4) year term and serve at the pleasure of the town council. Such administrative hearing officer may be reappointed.
 - (2) An administrative hearing officer shall be one (1) of the following:
 - (a) Licensed building inspector;
 - (b) Licensed plumbing inspector;
 - (c) Licensed electrical inspector;
 - (d) Licensed attorney;
 - (e) Licensed architect; or
 - (f) Licensed engineer.
- (3) The town may also contract with the Administrative Procedures Division, Office of the Tennessee Secretary of State to employ an administrative law judge on a temporary basis to serve as an administrative hearing officer. Such administrative law judge shall not be subject to the requirements of Tennessee Code Annotated, § 6-54-1007(a) and (b). (as added by Ord. #2020-21, Sept. 2020 *Ch20_06-28-21*)
- 12-1106. Training and continuing education. (1) Each person appointed to serve as an administrative hearing officer shall, within the six (6) month period immediately following the date of such appointment, participate in a program of training conducted by The University of Tennessee's Municipal Technical Advisory Service, referred to in this part as MTAS. MTAS shall issue a certificate of participation to each person whose attendance is satisfactory. The curricula for the initial training will be developed by MTAS with input from the administrative procedures division, office of the Tennessee secretary of state. MTAS will offer this program of training no less than twice per calendar year.
- (2) Each person actively serving as an administrative hearing officer shall complete six (6) hours of continuing education every calendar year. MTAS will develop the continuing education curricula and offer that curricula for credit no less than twice per calendar year. The education required by this section shall be in addition to any other continuing education requirements required for other professional licenses held by the individuals licensed under this part. No continuing education hours from one (1) calendar year may be carried over to a subsequent calendar year.
- (3) MTAS has the authority to set and enact appropriate fees for the requirements of this section. The town may bear some of the cost of the fees for an administrative hearing officer serving the town.

- (4) Costs pursuant to this section shall be offset by fees enacted. (as added by Ord. #2020-21, Sept. 2020 *Ch20_06-28-21*)
- 12-1107. <u>Citations for violations-written notice</u>. (1) Upon the issuance of a citation for violation of a municipal ordinance referenced in the town's administrative hearing ordinance, the issuing officer shall provide the alleged violator with written notice of:
 - (a) A short and plain statement of the matters asserted. If the issuing officer is unable to state the matters in detail at the time the citation is served, the initial notice may be limited to a statement of the issues involved and the ordinance violations alleged. Thereafter, a more definite and detailed written statement shall be furnished ten (10) business days prior to the time set for the hearing by the administrative hearing officer to the alleged violator;
 - (b) A short and plain description of the town's administrative hearing process including references to state and local statutory authority;
 - (c) Contact information for the town's administrative hearing office; and
 - (d) Time frame in which the hearing officer will review the citation and determine the fine and remedial period, if any.
- (2) Citations issued for violations of ordinances referenced in the town's administrative hearing ordinance shall be signed by the alleged violator at the time of issuance. If an alleged violator refuses to sign, the issuing officer shall note the refusal and attest to the alleged violator's receipt of the citation. An alleged violator's signature on a citation is not an admission of guilt.
- (3) Citations issued upon absentee property owners may be served via certified mail sent to the last known address of the recorded owner of the property.
- (4) Citations issued for violations of ordinances referenced in the town's administrative hearing ordinance shall be transmitted to an administrative hearing officer within two (2) business days of issuance. (as added by Ord. #2020-21, Sept. 2020 *Ch20_06-28-21*)
- 12-1108. Review of citation--levy of fines. (1) Upon receipt of a citation issued pursuant to § 12-1107, an administrative hearing officer shall, within seven (7) business days of receipt, review the appropriateness of an alleged violation. Upon determining that a violation does exist, the hearing officer has the authority to levy a fine upon the alleged violator in accordance with this section. Any fine levied by a hearing officer must be reasonable based upon the totality of the circumstances.
 - (a) For violations occurring upon residential property, a hearing officer has the authority to levy a fine upon the violator not to exceed five hundred dollars (\$500.00) per violation. For purposes of this subsection,

"residential property" means a single-family dwelling principally used as the property owner's primary residence and the real property upon which it sits.

- (b) For violations occurring upon non-residential property, a hearing officer has the authority to levy a fine upon the violator not to exceed five hundred dollars (\$500.00) per violation per day. For purposes of this subsection, "non-residential property" means all real property, structures, buildings and dwellings that are not residential property.
- (2) If a fine is levied pursuant to subsection (1), the hearing officer shall set a reasonable period of time to allow the alleged violator to remedy the violation alleged in the citation before the fine is imposed. The remedial period shall be no less than ten (10) nor greater than one hundred twenty (120) calendar days, except where failure to remedy the alleged violation in less than ten (10) calendar days would pose an imminent threat to the health, safety or welfare of persons or property in the adjacent area.
- (3) Upon the levy of a fine pursuant to subsection (1), the hearing officer shall within seven (7) business days, provide via certified mail notice to the alleged violator of:
 - (a) The fine and remedial period established pursuant to subsections (1) and (2);
 - (b) A statement of the time, place, nature of the hearing, and the right to be represented by counsel; and
 - (c) A statement of the legal authority and jurisdiction under which the hearing is to be held, including a reference to the particular sections of the statutes and rules involved.
- (4) The date of the hearing shall be no less than thirty (30) calendar days following the issuance of the citation. To confirm the hearing, the alleged violator must make a written request for the hearing to the hearing officer within seven (7) business days of receipt of the notice required in subsection (3).
- (5) If an alleged violator demonstrates to the issuing officer's satisfaction that the allegations contained in the citation have been remedied to the issuing officer's satisfaction, the fine levied pursuant to subsection (1) shall not be imposed or if already imposed cease; and the hearing date, if the hearing has not yet occurred, shall be cancelled. (as added by Ord. #2020-21, Sept. 2020 *Ch20_06-28-21*)
- 12-1109. Party in default. (1) If a party fails to attend or participate in a pre-hearing conference, hearing or other stage of a contested case, the administrative hearing officer may hold the party in default and either adjourn the proceedings or conduct them without the participation of that party, having due regard for the interest of justice and the orderly and prompt conduct of the proceedings.
- (2) If the proceedings are conducted without the participation of the party in default, the administrative hearing officer shall include in the final

order a written notice of default and a written statement of the grounds for the default. (as added by Ord. #2020-21, Sept. 2020 *Ch20_06-28-21*)

- 12-1110. <u>Petitions for intervention</u>. (1) The administrative hearing officer shall grant one (1) or more petitions for intervention if:
 - (a) The petition is submitted in writing to the administrative hearing officer, with copies mailed to all parties named in the notice of the hearing, at least seven (7) business days before the hearing;
 - (b) The petition states facts demonstrating that the petitioner's legal rights, duties, privileges, immunities or other legal interest may be determined in the proceeding or that the petitioner qualifies as an intervenor under any provision of law; and
 - (c) The administrative hearing officer determines that the interests of justice and the orderly and prompt conduct of the proceedings shall not be impaired by allowing the intervention.
- (2) If a petitioner qualifies for intervention, the administrative hearing officer may impose conditions upon the intervenor's participation in the proceedings, either at the time that intervention is granted or at any subsequent time. Conditions may include:
 - (a) Limiting the intervenor's participation to designated issues in which the intervenor has a particular interest demonstrated by the petition;
 - (b) Limiting the intervenor's participation so as to promote the orderly and prompt conduct of the proceedings; and
 - (c) Requiring two (2) or more intervenors to combine their participation in the proceedings.
- (3) The administrative hearing officer, at least twenty-four (24) hours before the hearing, shall render an order granting or denying each pending petition for intervention, specifying any conditions, and briefly stating the reasons for the order. The administrative hearing officer may modify the order at any time, stating the reasons for the modification. The administrative hearing officer shall promptly give notice of an order granting, denying or modifying intervention to the petitioner for intervention and to all parties. (as added by Ord. #2020-21, Sept. 2020 *Ch20_06-28-21*)

12-1111. Regulating course of proceedings--hearing open to public.

- (1) The administrative hearing officer shall regulate the course of the proceedings, in conformity with the pre-hearing order, if any.
- (2) To the extent necessary for full disclosure of all relevant facts and issues, the administrative hearing officer shall afford to all parties the opportunity to respond, present evidence and argument, conduct cross examination, and submit rebuttal evidence, except as restricted by a limited grant of intervention or by the prehearing order.

- (3) In the discretion of the administrative hearing officer and by agreement of the parties, all or part of the hearing may be conducted by telephone, television or other electronic means, if each participant in the hearing has an opportunity to participate in, to hear, and, if technically feasible, to see the entire proceedings while taking place.
- (4) The hearing shall be open to public observation pursuant to title 8, chapter 44 of the <u>Tennessee Code Annotated</u>, unless otherwise provided by state or federal law. To the extent that a hearing is conducted by telephone, television or other electronic means, the availability of public observation shall be satisfied by giving members of the public an opportunity, at reasonable times, to hear the tape recording and to inspect any transcript produced, if any. (as added by Ord. #2020-21, Sept. 2020 *Ch20_06-28-21*)

12-1112. Evidence and affidavits. (1) In administrative hearings:

- (a) The administrative hearing officer shall admit and give probative effect to evidence admissible in a court, and when necessary to ascertain facts not reasonably susceptible to proof under the rules of court, evidence not admissible thereunder may be admitted if it is of a type commonly relied upon by reasonably prudent men in the conduct of their affairs. The administrative hearing officer shall give effect to the rules of privilege recognized by law and to statutes protecting the confidentiality of certain records, and shall exclude evidence which in his or her judgment is irrelevant, immaterial or unduly repetitious;
- (b) At any time not less than ten (10) business days prior to a hearing or a continued hearing, any party shall deliver to the opposing party a copy of any affidavit such party proposes to introduce in evidence, together with a notice in the form provided in subsection (2). Unless the opposing party, within seven (7) business days after delivery, delivers to the proponent a request to cross-examine an affiant, the opposing party's right to cross examination of such affiant is waived and the affidavit, if introduced in evidence, shall be given the same effect as if the affiant had testified orally. If an opportunity to cross-examine an affiant is not afforded after a proper request is made as provided in this subsection (1)(b), the affidavit shall not be admitted into evidence. "Delivery," for purposes of this section, means actual receipt;
- (c) The administrative hearing officer may admit affidavits not submitted in accordance with this section where necessary to prevent injustice;
- (d) Documentary evidence otherwise admissible may be received in the form of copies or excerpts, or by incorporation by reference to material already on file with the municipality. Upon request, parties shall be given an opportunity to compare the copy with the original, if reasonably available; and

- (e) (i) Official notice may be taken of:
 - (A) Any fact that could be judicially noticed in the courts of this state;
 - (B) The record of other proceedings before the agency; or
 - (C) Technical or scientific matters within the administrative hearing officer's specialized knowledge.
- (ii) Parties must be notified before or during the hearing, or before the issuance of any final order that is based in whole or in part on facts or material notice, of the specific facts or material noticed and the source thereof, including any staff memoranda and data, and be afforded an opportunity to contest and rebut the facts or material so noticed.
- (2) The notice referred to in subsection (1)(b) shall contain the following information and be substantially in the following form:

The accompanying affidavit of (here
insert name of affidavit) will be introduced as evidence at the hearing in
(here insert title of proceeding).
(here insert name of affiant) will not be called to
testify orally and you will not be entitled to question such affiant unless
you notify (here insert name of the
proponent or the proponent's attorney) at
(here insert address) that you wish to cross-examine such affiant. To be
effective, your request must be mailed or delivered to
(here insert name of proponent or the
proponent's attorney) on or before (here insert a date seven
(7) business days after the date of mailing or delivering the affidavit to
the opposing party). (as added by Ord. #2020-21, Sept. 2020
$Ch20_06-28-21$)

- 12-1113. <u>Rendering of final order</u>. (1) An administrative hearing officer shall render a final order in all cases brought before his or her body.
- (2) A final order shall include conclusions of law, the policy reasons therefore, and findings of fact for all aspects of the order, including the remedy prescribed. Findings of fact, if set forth in language that is no more than mere repetition or paraphrase of the relevant provision of law, shall be accompanied by a concise and explicit statement of the underlying facts of record to support the findings. The final order must also include a statement of the available procedures and time limits for seeking reconsideration or other administrative relief and the time limits for seeking judicial review of the final order.
- (3) Findings of fact shall be based exclusively upon the evidence of record in the adjudicative proceeding and on matters officially noticed in that proceeding. The administrative hearing officer's experience, technical

competence and specialized knowledge may be utilized in the evaluation of evidence.

- (4) If an individual serving or designated to serve as an administrative hearing officer becomes unavailable, for any reason, before rendition of the final order, a qualified substitute shall be appointed. The substitute shall use any existing record and may conduct any further proceedings as is appropriate in the interest of justice.
- (5) The administrative hearing officer may allow the parties a designated amount of time after conclusion of the hearing for the submission of proposed findings.
- (6) A final order rendered pursuant to subsection (1) shall be rendered in writing within seven (7) business days after conclusion of the hearing or after submission of proposed findings unless such period is waived or extended with the written consent of all parties or for good cause shown.
- (7) The administrative hearing officer shall cause copies of the final order under subsection (1) to be delivered to each party. (as added by Ord. #2020-21, Sept. 2020 *Ch20_06-28-21*)
- 12-1114. <u>Final order effective date</u>. (1) All final orders shall state when the order is entered and effective.
- (2) A party may not be required to comply with a final order unless the final order has been mailed to the last known address of the party or unless the party has actual knowledge of the final order. (as added by Ord. #2020-21, Sept. 2020 *Ch20_06-28-21*)
- 12-1115. <u>Collection of fines, judgments and debts</u>. The town may collect a fine levied pursuant to this section by any legal means available to a municipality to collect any other fine, judgment or debt. (as added by Ord. #2020-21, Sept. 2020 *Ch20_06-28-21*)
- 12-1116. <u>Judicial review of final order</u>. (1) A person who is aggrieved by a final decision in a contested case is entitled to judicial review under this chapter, which shall be the only available method of judicial review.
- (2) Proceedings for judicial review of a final order are instituted by filing a petition for review in the chancery court in the county where the municipality lies. Such petition must be filed within sixty (60) calendar days after the entry of the final order that is the subject of the review.
- (3) The filing of the petition for review does not itself stay enforcement of the final order. The reviewing court may order a stay on appropriate terms, but if it is shown to the satisfaction of the reviewing court, in a hearing that shall be held within ten (10) business days of a request for hearing by either party, that any party or the public at large may suffer injury by reason of the granting of a stay, then no stay shall be granted until a good and sufficient bond, in an amount fixed and approved by the court, shall be given by the petitioner

conditioned to indemnify the other persons who might be so injured and if no bond amount is sufficient, the stay shall be denied.

- (4) Within forty-five (45) calendar days after service of the petition, or within further time allowed by the court, the administrative hearing officer shall transmit to the reviewing court the original or a certified copy of the entire record of the proceeding under review. By stipulation of all the parties of the review proceedings, the record may be shortened. A party unreasonably refusing to stipulate to limit the record may be taxed by the court for the additional cost. The court may require or permit subsequent corrections or additions to the record.
- (5) If, before the date set for hearing, application is made to the court for leave to present additional evidence, and it is shown to the satisfaction of the court that the additional evidence is material and that there were good reasons for failure to present it in the administrative proceeding, the court may order that the additional evidence be taken before the administrative hearing officer upon conditions determined by the court. The administrative hearing officer may modify its findings and decision by reason of the additional evidence and shall file that evidence and any modifications, new findings or decisions with the reviewing court.
- (6) The procedure ordinarily followed in the reviewing court will be followed in the review of contested cases decided by the administrative hearing officer, except as otherwise provided in this chapter. The administrative hearing officer that issued the decision to be reviewed is not required to file a responsive pleading.
- (7) The review shall be conducted by the court without a jury and shall be confined to the record. In cases of alleged irregularities in procedure before the administrative hearing officer, not shown in the record, proof thereon may be taken in the court.
- (8) The court may affirm the decision of the administrative hearing officer or remand the case for further proceedings. The court may reverse or modify the decision if the rights of the petitioner have been prejudiced because the administrative findings, inferences, conclusions or decisions are:
 - (a) In violation of constitutional or statutory provisions;
 - (b) In excess of the statutory authority of the administrative hearing officer;
 - (c) Made upon unlawful procedure;
 - (d) Arbitrary or capricious or characterized by abuse of discretion, or clearly unwarranted exercise of discretion; or
 - (e) Unsupported by evidence that is both substantial and material in the light of the entire record. In determining the substantiality of evidence, the court shall take into account whatever in the record fairly detracts from its weight, but the court shall not substitute its judgment for that of the administrative hearing officer as to the weight of the evidence on questions of fact.

- (9) No administrative hearing decision pursuant to a hearing shall be reversed, remanded or modified by the reviewing court unless errors that affect the merits of such decision are identified.
- (10) The reviewing court shall reduce its findings of fact and conclusions of law to writing and make them parts of the record. (as added by Ord. #2020-21, Sept. 2020 *Ch20_06-28-21*)
- 12-1117. <u>Appeal to court of appeals</u>. (1) An aggrieved party may obtain a review of any final judgment of the chancery court under this chapter by appeal to the Court of Appeals of Tennessee.
- (2) The record certified to the chancery court and the record in the chancery court shall constitute the record in an appeal. Evidence taken in court pursuant to title 24 shall become a part of the record.
- (3) The procedure on appeal shall be governed by the Tennessee Rules of Appellate Procedure. (as added by Ord. #2020-21, Sept. 2020 *Ch20_06-28-21*)

TITLE 13

PROPERTY MAINTENANCE REGULATIONS

CHAPTER

- 1. PROPERTY MAINTENANCE CODE.
- 2. LOT CLEARANCE.
- 3. MUNICIPAL LANDSCAPE ORDINANCE.

CHAPTER 1

PROPERTY MAINTENANCE CODE

SECTION

- 13-101. Property maintenance code adopted.
- 13-102. Property maintenance code insertions.
- 13-103–13-105. Deleted.
- 13-101. Property maintenance code adopted. The International Property Maintenance Code, 2018 edition, one (1) copy of which is, and has been, on file in the office of the town recorder for more than fifteen (15) days, is hereby adopted as the official Property Maintenance Code of the Town of Signal Mountain. (1985 Code, § 8-401, as replaced by Ord. #2020-22, Sept. 2020 *Ch20 06-28-21*)
- 13-102. <u>Property maintenance code insertions</u>. (1) Section 101.1 Title Town of Signal Mountain will be inserted.
- (2) Section 103.5 Fees This section will refer to Title 5 Chapter 5 of the Town of Signal Mountain Code, Town Fee Schedules.
- (3) Section 112.4 Failure to Comply- This section will refer to the Violations and Penalties Clause that is contained in all of the building codes.
- (4) Section 302.4 Weeds 9 inches will be inserted as the height of weeds that are our threshold.
- (5) Section 304.14 Insect Screens, the date that will be inserted is January 1 to December 31.
- (6) Section 602.3 Heat Supply, the date that will be inserted is January 1 to December 31.
- (7) Section 602.4 Occupiable Work Spaces, the date that will be inserted is January 1 to December 31. Existing ordinances to the contrary are hereby repealed in that respect only. (1985 Code, § 8-402, as replaced by Ord. #2020-22, Sept. 2020 *Ch20_06-28-21*)
- 13-103–13-105. <u>Deleted.</u> (as deleted by Ord. #2020-22, Sept. 2020 $\it Ch20_06-28-21$)

LOT CLEARANCE

SECTION

- 13-201. Definitions.
- 13-202. Unlawful accumulations of weeds, debris and dead timber.
- 13-203. Manner of disposal.
- 13-204. Clearance of lots upon failure of owner to act; procedure; assessment of costs.
- 13-205-13-221. Deleted.
- 13-201. <u>Definitions</u>. As used in this chapter, the following terms shall have the meanings ascribed to them:
- (1) "Dead timber" means dead tree branches, dead trees or dead shrubbery.
- (2) "Inflammable debris" means and includes dead leaves, old lumber, paper, pasteboard, rubbish or any inflammable waste material.
- (3) "Weeds" means all rank vines, bushes, stalks or vegetable growth. (as added by Ord. #2010-7, June 2010, and replaced by Ord. #2020-22, Sept. 2020 *Ch20_06-28-21*)
- 13-202. <u>Unlawful accumulations of weeds, debris and dead timber</u>. Any owner, lessee or occupant, or any agent, servant, representative or employee of any owner, lessee or occupant, having control of any lot of ground of any part of any lot, who shall allow or maintain on the lot any inflammable debris or any growth of weeds to a height of over one foot (1') or who shall allow dead timber to remain on the lot, shall be deemed guilty of an offense. (as added by Ord. #2010-7, June 2010, and replaced by Ord. #2020-22, Sept. 2020 *Ch20_06-28-21*)
- 13-203. <u>Manner of disposal</u>. Weeds, when cut down, or debris or dead timber shall be removed from a lot and disposed of in such a manner as not to create a nuisance. (as added by Ord. #2010-7, June 2010, and replaced by Ord. #2020-22, Sept. 2020 *Ch20_06-28-21*)
- 13-204. Clearance of lots upon failure of owner to act; procedure; assessment of costs. (1) Whenever, in violation of this chapter, weeds, inflammable debris or dead timber of any of them, are allowed on any lot of ground or any part of any lot of ground within the town, the owner of the ground, or in case of joint tenancy or tenancy in common each owner thereof shall be liable not only for the penalty provided for in the general penalty provision of this code of ordinances, but also, on complaint of the town superintendent or of any citizen to the town council of any violation of this chapter, there shall be a hearing before the town council at any regular, special

or called meeting, upon at least five (5) day notice given by the town, either to the owner or to his agent or by posting the notice on the premises. The notice shall give the time and place of the hearing. At the hearing, the town council, after considering the facts and hearing all objections or protests which may be made, may adopt or decline to adopt, a resolution to declaim the weeds, inflammable debris or dead timber to constitute a nuisance and ordering the town superintendent to abate and remove the nuisance and he is authorized, pursuant to the resolution, to enter upon private property for the purpose of abatement. The resolution shall describe the street or streets along which the work is to be done by the name under which it or they, are commonly known, and describe the property upon or in front of which the nuisance exists by the lot and block number of the lot according to a registered subdivision plat or the map of the town or some other definite, legal description by which the property can be identified.

- (2) Any property owner may remove the weeds, growth, inflammable debris or dead timber at his own expense prior to the arrival of the town's employees and their undertaking of the work.
- If the weeds are not cut down or the inflammable debris or dead timber, as the case may be, are not removed within five (5) days from the passage of the resolution pursuant to subsection (1), the town shall have the same cut and removed and he is required to keep an account of the cost of abating such nuisance on each separate lot or parcel of land where the work is done, and shall render an itemized report in writing to the town council showing the cost of removing the weeds, inflammable debris or dead timber on each separate lot. A copy of the itemized report shall be posted on or near the chamber door of the town council at the town hall for at least three (3) days prior to its submission to the town council for confirmation, together with a notice of the time it will be submitted. The notice shall be given by the town clerk. At the time fixed in the notice, any owner whose property is concerned may protest and be heard. The town council of commissioners shall hear and consider such protest and any evidence thereon, and may make such modification thereof as may be deemed necessary, after which, the report or the report as modified, may be confirmed. The amount of the costs as thus ascertained for the cutting and removal of weeds, inflammable debris or dead timber on and from the respective parcels of land, shall be and constitute a special assessment against and a lien upon each of the parcels. The assessment shall be entered upon the tax books and be collected by the tax collecting authorities of the town at the same time, in the same manner and subject to the same interest, penalties and charges in case of delinquency, as ordinary town taxes against the land. (as added by Ord. #2010-7, June 2010, and replaced by Ord. #2020-22, Sept. 2020 Ch20 06-28-21)

13-205–13-221. <u>Deleted</u>. (as deleted by Ord. #2020-22, Sept. 2020 ${\it Ch20\ 06\text{-}28\text{-}21}$)

MUNICIPAL LANDSCAPE ORDINANCE

SECTION

- 13-301. Establishment and purpose.
- 13-302. Definitions.
- 13-303. Signal Mountain Tree Board.
- 13-304. Authority and power.
- 13-305. Duties and responsibilities.
- 13-306. Tree species.
- 13-307. Spacing.
- 13-308. Distance from curb and sidewalk.
- 13-309. Distance from street corners and fireplugs.
- 13-310. Utilities.
- 13-311. Public tree care.
- 13-312. Pruning standards.
- 13-313. Tree topping.
- 13-314. Pruning and corner clearance.
- 13-315. Dead or diseased tree removal on private property.
- 13-316. Protection of trees.
- 13-317. Landmark trees.
- 13-318. Interference with town tree board.
- 13-319. Violations.
- 13-320. Penalties.
- 13-321. Appeal.
- 13-301. <u>Establishment and purpose</u>. One of the greatest assets of the Town of Signal Mountain, Tennessee is its extensive resource of trees and landscaping. The citizens of the town recognize that this resource provides enhanced quality of life and other benefits to the community that include natural beauty, noise abatement, cooling, improved drainage, and water quality. However, trees and shrubs planted on public property can be both assets and liabilities to the town. Therefore, a municipal landscape ordinance is hereby necessary to promote and protect the public health, safety, and general welfare of the town's citizens by providing for the regulation of the planting, protection, maintenance and removal of public trees and shrubs within the Town of Signal Mountain. (as added by Ord. #2020-22, Sept. 2020 *Ch20 06-28-21*)
- 13-302. <u>Definitions</u>. (1) "Drip-line." The ground area below the tree canopy where the tree's feeder roots are located.
- (2) "Nonnative invasive species." Any species of plant, vine, tree, or shrub capable of propagating that is not native to a particular ecosystem, and whose introduction is or is likely to cause harm to native species. (See Nonnative

<u>Invasive Plants of Southern Forests: A Field Guide for Identification and Control</u>, by James H. Miller, U.S. Department of Agriculture, Forest Service, Asheville, NC.)

- (3) "Park trees." Trees in public parks, and all areas owned by the town or to which the public has free access and uses as a park.
- (4) "Shrubs." Woody perennial plants that differ from trees by low stature and the general production of several basal stems instead of a single bole, and from perennial herbs by persistent and woody stem(s).
- (5) "Street trees." Trees within the entire width of every public way or right-of-way when any part thereof is open to the use of the public, as a matter of right, for the purpose of vehicular or pedestrian traffic.
- (6) "Town property." All real property that is owned or leased or maintained by the town or any part of the public right-of-way.
- (7) "Trees." Woody vegetation that obtains two inches (2") of diameter (or more) at six inches (6") above the ground. (as added by Ord. #2020-22, Sept. 2020 *Ch20_06-28-21*)
- 13-303. Signal Mountain Tree Board. (See title 2, chapter 16) The tree board was established November 2008 to protect the town's resource of native trees through tree advocacy and education. The board consists of seven (7) members, five (5) of which are residents of the town and a town council representative. Members are appointed by a majority vote of the town council and serve for three (3) year terms. Appointees have some educational and/or professional experience concerning landscaping and/or trees, which may include such occupations as landscape architect, arborist, forester, master gardener, gardener, teacher, botanist or biologist. A certified arborist and other plant professionals may serve as consultants and ad hoc members. The tree board serves in an advisory capacity to the town council and the town manager to recommend the adoption of programs, policies and regulations for the protection of trees. Other duties and responsibilities include providing general advice to the public and the town about trees including best management practices; educational outreach through schools, community events, garden clubs, National Arbor Day Foundation celebrations; active tree planting; removal of nonnative invasive species; education about nonnative invasive species; and, an honor tree program. Capital needs to support the board's programs include fund-raising and/or soliciting gifts, and memorials. (as added by Ord. #2020-22, Sept. 2020 *Ch20_06-28-21*)
- 13-304. <u>Authority and power</u>. The tree board shall develop guidelines for the care of all trees and shrubs located within street rights-of-way, parks and public places of the town. No individual, group or organization shall plant trees on public property without the recommendation and approval of the tree board. The town manager shall have the authority to review the conduct, acts and decisions of the tree board, and the tree board or any citizen shall have the right

of an appeal of any decision to the town council, which shall hear the matter and make the final decision or grant a reasonable variance that generally complies with the intent of this chapter. (as added by Ord. #2020-22, Sept. 2020 *Ch20 06-28-21*)

- 13-305. <u>Duties and responsibilities</u>. It shall be the responsibility of the tree board to study, investigate, counsel, develop and maintain guidelines for the care, preservation, pruning, planting, replanting, removal or disposition of trees and shrubs in parks, along streets and in other public areas and rights-of-way. Such guidelines after acceptance and approval by the town council will become part of this chapter and shall be the official comprehensive town landscape policy for the Town of Signal Mountain, Tennessee. The tree board shall also consider, investigate, make findings, report and recommend on any special matter of question coming within its scope upon request of the town council or the town manager. (as added by Ord. #2020-22, Sept. 2020 *Ch20_06-28-21*)
- 13-306. <u>Tree species</u>. The board shall develop and maintain a list of desirable trees for planting along streets in three (3) size classes based on mature height: small (under twenty feet (20')), medium (twenty to forty feet (20' 40') and large (over forty feet (40')). Efforts shall be made to ensure a sufficient diversity of tree species. (as added by Ord. #2020-22, Sept. 2020 *Ch20_06-28-21*)
- 13-307. <u>Spacing</u>. The spacing of street trees will be in accordance with the three (3) species size classes listed in § 13-206 of this chapter, and no street trees may be planted closer together than the following: small trees, fifteen feet (15'); medium trees, twenty-five feet (25'); and large trees, thirty-five feet (35'); except in special plantings designed and approved by a landscape architect. (as added by Ord. #2020-22, Sept. 2020 *Ch20_06-28-21*)
- 13-308. <u>Distance from curb and sidewalk</u>. The distance trees may be planted from curbs or curblines and sidewalks will be in accordance with the three (3) species size classes listed in § 13-307 of this chapter, and no trees may be planted closer to any curb or sidewalk than three feet (3') for small trees, five feet (5') for medium trees or seven feet (7') for large trees. (as added by Ord. #2020-22, Sept. 2020 *Ch20_06-28-21*)
- 13-309. <u>Distance from street corners and fireplugs</u>. No street tree shall be planted within thirty-five feet (35') of any street corner, measured from the point of nearest intersecting curbs or curblines. No street tree or shrub shall be planted within ten (10) lateral feet of any fireplug. No street tree shall be planted within fifteen feet (15') of any driveway/intersection as measured parallel to the street. (as added by Ord. #2020-22, Sept. 2020 *Ch20_06-28-21*)

- 13-310. <u>Utilities</u>. The building official shall regulate tree planting around utilities in compliance with any utility regulations adopted by any utility provider or building and electrical codes adopted by the town. No street trees other than those species accepted as small trees (under twenty feet (20')) by the tree board may be planted under or within ten feet (10') of any utility pole or wire or over or within five (5) lateral feet of any underground water line, sewer line, transmission line or other utility. The building official shall contact the utility provider to cause the removal of inappropriate tree plantings where violations may result in an immediate public health and safety risk. (as added by Ord. #2020-22, Sept. 2020 *Ch20_06-28-21*)
- 13-311. Public tree care. The Town of Signal Mountain shall plant, prune, maintain and remove trees and shrubs within the boundaries and rights-of-way of all streets, alleys, avenues, lanes, parks and public grounds as may be necessary to ensure public safety and general welfare. The town shall also remove and attempt to control nonnative invasive species within public rights-of-way that are injurious to public trees and shrubs. The town manager at his/her discretion or upon recommendation by the tree board or director of public works shall remove or cause or order to be removed any tree or part thereof within public rights-of-way subject to the approval of the utility provider that is in an unsafe condition or that by reason of its nature is injurious to sewers, electric power lines, gas lines, water lines and other public improvements or is affected with any injurious fungus, insect or other pest. All work by the town or contractors hired by the town for tree pruning, maintenance and removal will follow the related ANSI A300 standards and that all trees planted on public property will follow the American Standard for Nursery Stock, ANSI 60.1. No ground-disturbing activities by private contractors or sub-contractors shall occur within the drip-line of any tree on town property without first receiving written permission from the building official. Permission must be obtained at the town hall not less than forty-eight (48) hours in advance of the work to be done except in emergency situations. A fee of ten dollars (\$10.00) shall be charged. The permission provided shall be in compliance with the provisions of this chapter and shall contain a definite date of expiration. Permission shall be void if its terms are violated. (as added by Ord. #2020-22, Sept. 2020 Ch20_06-28-21)
- 13-312. <u>Pruning standards</u>. All tree pruning on public property shall conform to the American National Standards Institute (ANSI) A300 standards for tree care operations. (as added by Ord. #2020-22, Sept. 2020 *Ch20 06-28-21*)
- 13-313. <u>Tree topping</u>. It shall be unlawful for any person, firm or town department to top any street tree, park tree or other tree on public property. Topping is defined as the severe cutting back of limbs to stubs or an undesirable

short length of branches within the tree's crown to such a degree as to remove the normal canopy and disfigure the tree. An ISA certified arborist may be retained to perform crown reductions as necessary to benefit the tree health or for reasons of public safety. Trees severely damaged by storms or other causes or certain trees under utility wires or other obstructions where other pruning practices are impractical may be exempt from this chapter based upon regulations adopted by any utility within its rights-of-way at the determination of the town manager and/or recommendation of the tree board or department head. (as added by Ord. #2020-22, Sept. 2020 *Ch20_06-28-21*)

- 13-314. Pruning and corner clearance. Owners of trees or shrubs that overhang streets or rights-of-way within the town shall maintain any tree, hedge or shrub that prevents a clear view of traffic when approaching an intersection to three feet (3') in height for a distance of twenty-five feet (25') back from the lot line at such an intersection and remove any tree limb or branches that are less than ten feet (10') in height that are within twenty-five feet (25') of the lot line intersection. Owners of trees and shrubs shall maintain an area clear of tree limbs and shrubbery to ten feet (10') above the street surface and eight feet (8') above the sidewalk surface. Owners shall also remove all dead, diseased or dangerous trees or broken or decayed limbs that constitute a menace to public safety within thirty (30) days following notice from the town manager. The town shall prune any tree or shrub on private property that interferes with the proper spread of light along a street from a streetlight or interferes with visibility of any traffic control device or sign or sight triangle at intersections that is prohibited by § 16-104. (as added by Ord. #2020-22, Sept. 2020 Ch20 06-28-21)
- 13-315. Dead or diseased tree removal on private property. The town shall have the right to cause the removal of dead or diseased trees on private property within the town, when such trees constitute a hazard to life and property or harbor insects or disease that constitute an immediate threat to other trees within the town. The town manager shall notify owners of such trees in writing to remove them at their own expense within thirty (30) days after the receipt of notice. In the event of failure by owners to comply with such provisions, the town shall remove such trees and charge the cost of removal to the owners subject to the right of the property owner to appeal such action under § 13-321. (as added by Ord. #2020-22, Sept. 2020 *Ch20_06-28-21*)
- 13-316. Protection of trees. In order to maintain the tree canopy, reasonable efforts shall be made to replace trees that are removed from public property and to protect quality trees that are endangered on public property. The drip-line of desirable tree species in good health shall be protected on town property and rights-of-way as much as possible from damage during construction, sidewalk repair, and utilities work above and below ground and

other similar activities. The tree board shall encourage all citizens through education and advocacy to plant suitable tree and shrub species in the town as a means to protect both public and private property. (as added by Ord. #2020-22, Sept. 2020 *Ch20_06-28-21*)

- 13-317. <u>Landmark trees</u>. Owners of public or private trees in the town may request that the tree board designate a tree of significant age or size or history that constitutes a unique asset to the community as a Signal Mountain Landmark Tree. (as added by Ord. #2020-22, Sept. 2020 *Ch20 06-28-21*)
- 13-318. <u>Interference with town tree board</u>. It shall be unlawful for any person to prevent, delay or interfere with the tree board or any of its agents while engaging in and about the planting, cultivation, mulching, pruning, spraying or removing of any shrubs, street trees, park trees or trees on public grounds as authorized in this chapter. (as added by Ord. #2020-22, Sept. 2020 *Ch20_06-28-21*)
- 13-319. Violations. No person shall cause the injury, mutilation or death of a tree, shrub or other plant (not including nonnative invasive species) located on town property or within town rights-of-way by any act of vandalism or negligence or traffic accident without paying the cost of repair or replacement or the appraised dollar value of such tree, shrub or other plant. The value of trees and shrubs shall be determined in accordance with the latest revision of A Guide to the Professional Evaluation of Landscape Trees, Specimen Shrubs, and Evergreens, as published by the International Society of Arboriculture. Unless specifically authorized by the town manager or his/her agent, no person shall intentionally damage, cut, carve, transplant or remove any tree located on town property or within town rights-of-way; attach any rope, wire, nails, advertising posters or other contrivances to any tree located on town property or rights-of-way; allow any volatile liquid or solid or impervious substance (concrete, asphalt, brick, stone, etc.) that is harmful to trees and root systems to come into contact with any tree located on town property or within town rights-of-way; or set fire or permit any fire to burn nearby when such fire or heat thereof may injure any portion of any tree located on town property or within town rights-of-way; or permit grade changes around or under any tree located on town property or town rights-of-way; or permit storage of materials directly on the root zone of any tree located on town property or within town rights-of-way. (as added by Ord. #2020-22, Sept. 2020 Ch20 06-28-21)
- 13-330. <u>Penalties</u>. Any person acting at the will of the town within the town limits who violates any provision of this chapter shall be responsible for ameliorating the situation at the direction of the town manager after appropriate investigation, which may include a recommendation by the tree board and/or the director of public works. Any person who violates any provision

of this chapter or who fails to comply with any notice issued pursuant to any provision of this chapter, upon being found guilty of violation, shall be subject to a fine not to exceed fifty dollars (\$50.00) for each separate offense. Each day during which any violation of the provisions of this chapter shall occur or continue shall be a separate offense. (as added by Ord. #2020-22, Sept. 2020 *Ch20_06-28-21*)

13-321. Appeal. Any person aggrieved by any action or decision by the tree board, the town manager or his/her agents pursuant to this chapter shall have the right to an appeal to the town council; provided a written request is filed within thirty (30) days of the action upon which the appeal is based. The town council may hear the matter and make the final decision or grant a reasonable variance that generally complies with the intent of this chapter. (as added by Ord. #2020-22, Sept. 2020 *Ch20_06-28-21*)

TITLE 14

ZONING AND LAND USE CONTROL

CHAPTER

- 1. [REPEALED.]
- 2. ZONING ORDINANCE.
- 3. MUNICIPAL FLOOD DAMAGE PREVENTION.
- 4. DESIGN PRINCIPLES AND STANDARDS.
- 5. SIGN REGULATIONS.

CHAPTER 1

[REPEALED]

(as repealed by Ord. #2010-3, Jan. 2010)

ZONING ORDINANCE

SECTION

14-201. Governed by current zoning ordinance and amendments.

14-201. Governed by current zoning ordinance and amendments. Zoning within the Town of Signal Mountain shall be governed by the provisions of the most current zoning ordinance approved by the Signal Mountain Planning Commission and the town council. The codified zoning ordinance shall be attached as Appendix to the Signal Mountain town code. (1985 Code, § 11-201, as replaced by Ord. #2004-6, Oct. 2004)

¹See Appendix A of this municipal code for the zoning ordinance adopted by Ord. #2004-6, October 25, 2004.

MUNICIPAL FLOOD DAMAGE PREVENTION

SECTION

- 14-301. Statutory authorization, findings of fact, purposes and objectives.
- 14-302. Definitions.
- 14-303. General provisions.
- 14-304. Administration.
- 14-305. Provisions for flood hazard reduction.
- 14-306. Variance procedures.

14-301. Statutory authorization, findings of fact, purpose and objectives.

- (1) <u>Statutory authorization</u>. The Legislature of the State of Tennessee has in <u>Tennessee Code Annotated</u>, § 6-19-101 delegated the responsibility to units of local government to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the Mayor of the Town of Signal Mountain, Tennessee and the Signal Mountain Town Council do ordain as follows:
 - (2) <u>Findings of fact</u>. (a) The Mayor of the Town of Signal Mountain and the Signal Mountain Town Council wish to (maintain establish) eligibility in the National Flood Insurance Program and in order to do so must meet the requirements of 60.3(d) of the Federal Insurance Administration Regulations found at 44 CFR Ch. 1 (10-1-88 Edition) and subsequent amendments.
 - (b) Areas of Signal Mountain are subject to periodic inundation which could result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.
 - (c) These flood losses are caused by the cumulative effect of obstructions in floodplains, causing increases in flood heights and velocities; and by uses in flood hazard areas which are vulnerable to floods; or construction which is inadequately elevated, flood-proofed, or otherwise unprotected from flood damages.
- (3) <u>Statement of purpose</u>. It is the purpose of this chapter to promote the public health, safety and general welfare, and to minimize public and private losses due to flood conditions in specific areas. This chapter is designed to:
 - (a) Restrict or prohibit uses which are vulnerable to water or erosion hazards, or which cause in damaging increases in erosion, flood heights, or velocities;

- (b) Require that uses vulnerable to floods, including community facilities, be protected against flood damage;
- (c) Control the alteration of natural floodplains, stream channels, and natural protective barriers which accommodate flood waters:
- (d) Control filling, grading, dredging and other development which may increase erosion or flood damage, and;
- (e) Prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards.
- (4) <u>Objectives</u>. The objectives of this chapter are:
 - (a) To protect human life and health;
- (b) To minimize expenditure of public funds for costly flood control projects;
- (c) To minimize the need for rescue and relief efforts associated with flooding;
 - (d) To minimize prolonged business interruptions;
- (e) To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, street and bridges located in floodable areas;
- (f) To help maintain a stable tax base by providing for the sound use and development of flood prone areas;
- (g) To ensure that potential buyers are notified that property is in a floodable area; and,
- (h) To establish eligibility for participation in the National Flood Insurance Program. (as added by Ord. #92-9, and replaced by Ord. #2003-2. Jan. 2003)
- 14-302. <u>Definitions</u>. Unless specifically defined below, words or phrases used in this chapter shall be interpreted as to give them the meaning they have in common usage and to give this chapter its most reasonable application.
- (1) "Accessory structure" shall represent subordinate structure to the principal structure and, for the purpose of this section, shall conform to the following:
 - (a) Accessory structures shall not be used for human habitation.
 - (b) Accessory structures shall be designed to have low flood damage potential.
 - (c) Accessory structures shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters.
 - (d) Accessory structures shall be firmly anchored to prevent flotation which may result in damage to other structures.
 - (e) Service facilities such as electrical and heating equipment shall be elevated or floodproofed.

- (2) "Act" means the statutes authorizing the National Flood Insurance Program that are incorporated in 42 U.S.C. 4001-4128.
- (3) "Addition (to an existing building)" means any walled and roofed expansion to the perimeter of a building in which the addition is connected by a common load bearing wall other than a fire wall. Any walled and roofed addition which is connected by a fire wall or is separated by independent perimeter load-bearing walls is new construction.
- (4) "Appeal" means a request for a review of the building official's interpretation of any provision of this chapter or a request for a variance.
- (5) "Area of shallow flooding" means a designated AO or AH Zone on a community's Flood Insurance Rate Map (FIRM) with one percent or greater chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.
- (6) "Area of special flood-related erosion hazard" is the land within a community which is most likely to be subject to sever flood-related erosion losses. The area may be designated as Zone E on the Flood Hazard Boundary Map (FHBM). After the detailed evaluation of the special flood-related erosion hazard area in preparation for publication of the FIRM, Zone E may be further refined.
- (7) "Area of special flood hazard" is the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. The area may be designated as Zone A on the FHBM. After detailed ratemaking has been completed in preparation for publication of the FIRM, Zone A usually is refined into Zones A, AO, AH, A1-30, AE or A99.
- (8) "Base flood" means the flood having a one percent chance of being equaled or exceeded in any given year.
- (9) "Basement" means that portion of a building having its floor subgrade (below ground level) on all sides.
- (10) "Breakaway wall" means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces, without causing damage to the elevated portion of the building or supporting foundation system.
- (11) "Building", for purposes of this section, means any structure built for support, shelter, or enclosure for any occupancy or storage. (See "structure")
- (12) "Development" means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.
 - (13) "Elevated building" means a non-basement building
 - (a) Built to have the bottom of the lowest horizontal structure member of the elevated floor elevated above the ground level by means of pilings, columns (posts and piers),

- (b) And adequately anchored so as not to impair the structural integrity of the building during a flood of up to the magnitude of the base flood. In the case of Zones A1-30, AE, A, A99, AO, AH, B, C, X, or D, "elevated building" also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of flood waters.
- (14) "Emergency flood insurance program" or "emergency program" means the program as implemented on an emergency basis in accordance with section 1336 of the Act. It is intended as a program to provide a first layer amount of insurance on all insurable structures before the effective date of the initial FIRM.
- (15) "Erosion" means the process of the gradual wearing away of land masses. This peril is not per se covered under the program.
- (16) "Exception" means a waiver from the provisions of this chapter which relieves the applicant from the requirements of a rule, regulation, order or other determination made or issued pursuant to this chapter.
- (17) "Existing construction" any structure for which the "start of construction" commenced before the effective date of this chapter.
- (18) "Existing manufactured home park or subdivision" means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of this chapter.
 - (19) "Existing structures" see "existing construction".
- (20) "Expansion to an existing manufactured home park or subdivision" means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).
- (21) "Flood" or "flooding" means a general and temporary condition of partial or complete inundation of normally dry land areas from:
 - (a) The overflow of inland or tidal waters;
 - (b) The unusual and rapid accumulation or runoff of surface waters from any source.
- (22) "Flood elevation determination" means a determination by the administrator of the water surface elevations of the base flood, that is, the flood level that has a one percent or greater chance of occurrence in any given year.
- (23) "Flood elevation study" means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudslide (i.e., mudflow) and/or flood-related erosion hazards.
- (24) "Flood Hazard Boundary Map (FHBM)" means an official map of a community, issued by the Federal Emergency Management Agency, where the

boundaries of the flood related erosion areas having special hazards have been designated as Zone A, M, and/or E.

- (25) "Flood Insurance Rate Map (FIRM)" means an official map of a community, on which the Federal Emergency Management Agency has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.
- (26) "Flood insurance study" is the official report provided by the Federal Emergency Management Agency. The report contains flood profiles as well as the Flood Boundary Map and the water surface elevation of the base flood.
- (27) "Floodplain" or "flood-prone area" means any land area susceptible to being inundated by water from any source (see definition of "flooding").
- (28) "Floodplain management" means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works and floodplain management regulations.
- (29) "Flood protection system" means those physical structural works for which funds have been authorized, appropriated, and expended and which have been constructed specifically to modify flooding in order to reduce the extent of the area within a community subject to a "special flood hazard" and the extent of the depths of associated flooding. Such a system typically includes hurricane tidal barriers, dams, reservoirs, levees or dikes. These specialized flood modifying works are those constructed in conformance with sound engineering standards.
- (30) "Floodproofing" means any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.
- (31) "Flood-related erosion" means the collapse or subsidence of land along the shore of a lake or other body of water as a result of undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a sever storm, or by an unanticipated force of nature, such as a flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding.
- (32) "Flood-related erosion area" or "flood-related erosion prone area" means a land area adjoining the shore of a lake or other body of water, which due to the composition of the shoreline or bank and high water levels or wind-driven currents, is likely to suffer flood-related erosion damage.
- (33) "Flood-related erosion area management" means the operation of an overall program of corrective and preventive measures for reducing floodrelated erosion damage, including but not limited to emergency preparedness

plans, flood-related erosion control works and flood plain management regulations.

- (34) "Floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.
- (35) "Floor" means the top surface of an enclosed area in a building (including basement), i.e., top of slab in concrete slab construction or top of wood flooring in wood frame construction. The term does not include the floor of a garage used solely for parking vehicles.
- (36) "Freeboard" means a factor of safety usually expressed in feet above a flood level for purposes of floodplain management. "Freeboard" tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, bridge openings and the hydrological effect of urbanization of the watershed.
- (37) "Functionally dependent use" means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.
- (38) "Highest adjacent grade" means the highest natural elevation of the ground surface, prior to construction, next to the proposed walls of a structure.
 - (39) "Historic Structure" means any structure that is:
 - (a) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminary determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
 - (b) Certified or preliminary determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminary determined by the secretary to qualify as a registered historic district;
 - (c) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
 - (d) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 - (i) By an approved state program as determined by the Secretary of the Interior, or

- (ii) Directly by the Secretary of the Interior in states without approved programs.
- (40) "Levee" means a man-made structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control, or divert the flow of water so as to provide protection from temporary flooding.
- (41) "Levee system" means a flood protection system which consists of a levee, or levees, and associated structures, such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.
- (42) "Lowest floor" means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this chapter.
- (43) "Manufactured home" means a structure, transportable in one or more sections, which is built on a permanent chassis and designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle".
- (44) "Manufactured home park or subdivision" means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.
- (45) "Map" means the Flood Hazard Boundary Map (FHBM) or the Flood Insurance Rate Map (FIRM) for a community issued by the agency.
- (46) "Mean sea level" means the average height of the sea for all stages of the tide. It is used as a reference for establishing various elevations within the floodplain. For purposes of this chapter, the term is synonymous with National Geodetic Vertical Datum (NGVD) or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.
- (47) "National Geodetic Vertical Datum (NGVD)" as corrected in 1929 is a vertical control used as a reference for establishing varying elevations within the floodplain.
- (48) "New construction" any structure for which the "start of construction" commenced on or after the effective date of this chapter. The term also includes any subsequent improvements to such structure.
- (49) "New manufactured home park or subdivision" means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of this chapter.
 - (50) "100-year flood" see "base flood."

- (51) "Person" includes any individual or group of individuals, corporation, partnership, association, or any other entity, including state and local governments and agencies.
 - (52) "Recreational vehicle" means a vehicle which is:
 - (a) Built on a single chassis;
 - (b) 400 square feet or less when measured at the largest horizontal projections;
 - (c) Designed to be self-propelled or permanently towable by a light duty truck; and
 - (d) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.
- (53) "Regulatory floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.
- (54) "Riverine" means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.
- (55) "Special hazard area" means an area having special flood, mudslide (i.e., mudflow) and/or flood related erosion hazards, and shown on an FHBM or FIRM as Zone A, AO, A1-30, AE, A99, or AH.
- "Start of construction" includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure (including a manufactured home) on a site, such as the pouring of slabs or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.
- (57) "State coordinating agency" (Tennessee Department of Economic and Community Development, Local Planning Assistance Office) means the agency of the state government, or other office designated by the governor of the state or by state statute at the request of the administrator to assist in the implementation of the National Flood Insurance Program in that state.

- (58) "Structure," for purposes of this section, means a walled and roofed building that is principally above ground, a manufactured home, a gas or liquid storage tank, or other man-made facilities or infrastructures.
- (59) "Substantial damage" means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.
- (60) "Substantial improvement" means any reconstruction, rehabilitation, addition or other improvement of a structure, the cost of which equals or exceeds fifty percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include either:
 - (a) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions or;
 - (b) Any alteration of a "historic structure", provided that the alteration will not preclude the structure's continued designation as a "historic structure."
- (61) "Substantially improved existing manufactured home parks or subdivisions" is where the repair, reconstruction, rehabilitation or improvement of the streets, utilities and pads equals or exceeds 50 percent of the value of the streets, utilities and pads before the repair, reconstruction or improvement commenced.
- (62) "Variance" is a grant of relief from the requirements of this chapter which permits construction in a manner otherwise prohibited by this chapter where specific enforcement would result in unnecessary hardship.
- (63) "Violation" means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certification, or other evidence of compliance required in this chapter is presumed to be in violation until such time as that documentation is provided.
- (64) "Water surface elevation" means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, (or other datum, where specified) of floods of various magnitudes and frequencies in the flood plains of coastal or riverine areas. (as added by Ord. #92-9, and replaced by Ord. #2003-2, Jan. 2003)
- 14-303. <u>General provisions</u>. (1) <u>Application</u>. This chapter shall apply to all areas within the incorporated area of Signal Mountain, Tennessee.
- (2) <u>Basis for establishing the areas of special flood hazard</u>. The areas of special flood hazard within the Town of Signal Mountain, Tennessee,

identified by the Federal Emergency Management Agency (FEMA), in its Flood Insurance Study (FIS) dated August 14, 2014, and the Flood Insurance Rate Map (FIRM), Community 470078, Panel Numbers 47065C0212G, 47065C0213G, 47065C0214G, 47065C0310G, 47065C0326G, and 47065C0327G, dated August 14, 2014, along with all supporting technical data, are adopted by reference and declared to be a part of this chapter.

- (3) Requirement for development permit. A development permit shall be required in conformity with this chapter prior to the commencement of any development activity.
- (4) <u>Compliance</u>. No structure or use shall hereafter be located, extended, converted or structurally altered without full compliance with the terms of this chapter and other applicable regulations.
- (5) <u>Abrogation and greater restrictions</u>. This chapter is not intended to repeal, abrogate, or impair any existing easement, covenant, or deed restriction. However, where this chapter conflicts or overlaps with another, whichever imposes the more stringent restrictions shall prevail.
- (6) <u>Interpretation</u>. In the interpretation and application of this chapter, all provisions shall be:
 - (a) Considered as minimum requirements;
 - (b) Liberally construed in favor of the governing body, and;
 - (c) Deemed neither to limit nor repeal any other powers granted under state statutes.
- (7) Warning and disclaimer of liability. The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering consideration. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This chapter does not imply that land outside the flood hazard areas or uses permitted within such areas will be free from flooding or flood damages. This chapter shall not create liability on the part of the Town of Signal Mountain, Tennessee or by any officer or employee thereof for any flood damages that result from reliance on this chapter or any administrative decision lawfully made hereunder.
- (8) Penalties for violation. Violation of the provisions of this chapter or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance or special exceptions, shall constitute a misdemeanor punishable as other misdemeanors as provided by law. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the Town of Signal Mountain, Tennessee from taking such other lawful actions to prevent or remedy any violation. (as added by Ord. #92-9, replaced by Ord. #2003-2, Jan. 2003, and amended by Ord. #2016-02, Jan. 2016)

- 14-304. <u>Administration</u>. (1) <u>Designation building inspector</u>. The building inspector is hereby appointed to administer and implement the provisions of this chapter.
- (2) <u>Permit procedures</u>. Application for a development permit shall be made to the building inspector on forms furnished by him prior to any development activity. The development permit may include, but is not be limited to the following: plans in duplicate, drawn to scale, showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, earthen fill, storage of materials or equipment, drainage facilities. Specifically, the following information is required:
 - (a) <u>Application stage</u>. (i) Elevation in relation to mean sea level of the proposed lowest floor (including basement) of all buildings.*
 - (ii) Elevation in relation to mean sea level to which any non-residential building will be flood-proofed, where base flood elevation data is available.*
 - (iii) Certificate from a registered professional engineer or architect that the non-residential flood-proofed building will meet the flood-proofed criteria in § 14-304(2)(b), where base flood elevation data is available.*
 - (iv) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development. *(see (b) below)
 - (b) <u>Construction stage</u>. Within unnumbered A zones, where flood elevation data are not available, the building inspector shall record the elevation of the lowest floor on the development permit. The elevation of the lowest floor shall be determined as the measurement of the lowest floor of the building and the highest adjacent grade. USGS Quadrangle maps may be utilized when no more detailed reference exists to establish reference elevations.

Within all flood zones where base flood elevation data are utilized, the building inspector shall require that upon placement of the lowest floor, or flood-proofing by whatever construction means, whichever is applicable, it shall be the duty of the permit holder to submit to the building inspector a certification of the elevation of the lowest floor, or flood-proofed elevation, whichever is applicable, as built, in relation to mean sea level. Said certification shall be prepared by, or under the direct supervision of, a registered land surveyor, professional engineer, or architect and certified by same. When flood-proofing is utilized for a particular building, said certification shall be prepared by, or under the direct supervision of, a professional engineer or architect and certified by same. Any work undertaken prior to submission of the certification shall be at the permit holder's risk. The building inspector shall review the floor elevation survey data submitted. Deficiencies detected by such

review shall be corrected by the permit holder immediately and prior to further progressive work being permitted to proceed. Failure to submit the survey or failure to make said corrections required hereby, shall be cause to issue a stop-work order for the project.

- (3) <u>Duties and responsibilities of the building inspector</u>. Duties of the building inspector shall include, but not be limited to:
 - (a) Review of all development permits to assure that the requirements of this chapter have been satisfied, and that proposed building sites will be reasonably safe from flooding.
 - (b) Advice to permittee that additional federal or state permits may be required, and if specific federal or state permit requirements are known, require that copies of such permits be provided and maintained on file with the development permit. This shall include Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U. S. C. 1334.
 - (c) Notification to adjacent communities and the Tennessee Department of Economic and Community Development, Local Planning Office, prior to any alteration or relocation of a watercourse, and submission of evidence of such notification to the Federal Emergency Management Agency.
 - (d) Record the actual elevation (in relation to mean sea level or highest adjacent grade, whichever is applicable) of the lowest floor (including basement) of all new or substantially improved buildings, in accordance with § 14-304(2)(b).
 - (e) Record the actual elevation (in relation to mean sea level or highest adjacent grade, whichever is applicable) to which the new or substantially improved buildings have been flood-proofed, in accordance with § 14-304(2)(b).
 - (f) When flood-proofing is utilized, the building inspector shall obtain certification from a registered professional engineer or architect, in accordance with § 14-304(2)(b).
 - (g) Where interpretation is needed as to the exact location of boundaries of the areas of special flood hazard (for example, where there appears to be a conflict between a mapped boundary and actual field conditions) the building inspector shall make the necessary interpretation. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in § 14-306.
 - (h) When base flood elevation data or floodway data have not been provided by the Federal Emergency Management Agency then the building inspector shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a federal, state, or other source, including data developed as a result of these regulations, as criteria for requiring that new construction, substantial improvements,

or other development in Zone A on the community FHBM or FIRM meet the requirements of this chapter.

- (i) All records pertaining to the provisions of this chapter shall be maintained in the office of the building inspector and shall be open for public inspection. Permits issued under the provisions of this chapter shall be maintained in a separate file or marked for expedited retrieval within combined files.
- (j) Assure that the flood carrying capacity within an altered or relocated portion of any water course is maintained. (as added by Ord. #92-9, and replaced by Ord. #2003-2, Jan. 2003)
- 14-305. <u>Provisions for flood hazard reduction</u>. (1) <u>General standards</u>. In all flood prone areas the following provisions are required:
 - (a) New construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure:
 - (b) Manufactured homes shall be elevated and anchored to prevent flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This standard shall be in addition to and consistent with applicable state requirements for resisting wind forces;
 - (c) New construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage;
 - (d) New construction or substantial improvements shall be constructed by methods and practices that minimize flood damage;
 - (e) Electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding:
 - (f) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
 - (g) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters;
 - (h) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding;
 - (i) Any alteration, repair, reconstruction or improvements to a building which is in compliance with the provisions of this chapter, shall meet the requirements of "new construction" as contained in this chapter; and,

- (j) Any alteration, repair, reconstruction or improvements to a building which is not in compliance with the provision of this chapter, shall be undertaken only if said non-conformity is not extended.
- (2) <u>Specific standards</u>. These provisions shall apply to all areas of special flood hazard as provided herein:

In all areas of special flood hazard where base flood elevation data have been provided, including A zones, A1-30 zones, AE zones, AO zones, AH zones and A99 zones, and has provided a regulatory floodway, as set forth in § 14-303(2), the following provisions are required.

- (a) Residential construction. New construction or substantial improvement of any residential building (or manufactured home) shall have the lowest floor, including basement elevated no lower than one (1) foot above the base flood elevation. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate the unimpeded movements of flood waters shall be provided in accordance with standards of § 14-305(2)(c).
- (b) Non-residential construction. New construction or substantial improvement of any commercial, industrial, or non-residential building shall have the lowest floor, including basement, elevated no lower than one (1) foot above the level of the base flood elevation. Buildings located in all A-zones may be flood-proofed in lieu of being elevated provided that all areas of the building below the required elevation are watertight with walls substantially impermeable to the passage of water, and are built with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certification shall be provided to the (building official) as set forth in § 14-304(2)(b).
- (c) <u>Elevated building</u>. New construction or substantial improvements of elevated buildings that include fully enclosed areas formed by foundation and other exterior walls below the base flood elevation, shall be designed to preclude finished living space and designed to allow for the entry and exit of flood water to automatically equalize hydrostatic flood forces on exterior walls.
 - (i) Designs for complying with this requirement must either be certified by a professional engineer or architect or meet the following minimum criteria.
 - (A) Provide a minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;
 - (B) The bottom of all openings shall be no higher than one foot above grade; and

- (C) Openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwaters in both directions.
- (ii) Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment used in connection with the premises (standard exterior door) or entry to the living area (stairway or elevator); and
- (iii) The interior portion of such enclosed area shall not be partitioned or finished into separate rooms in such a way as to impede the movement of floodwaters and all such petitions shall comply with the provisions of § 14-305(2) of this chapter.
- (d) <u>Standards for manufactured homes and recreational vehicles</u>. (i) All manufactured homes placed, or substantially improved, on individual lots or parcels, in expansions of existing manufactured home parks or subdivisions, or in substantially improved manufactured home parks or subdivisions, must meet all the requirements of new construction, including elevations and anchoring.
 - (ii) All manufactured homes place or substantially improved in an existing manufactured home park or subdivision must be elevated so that:
 - (A) The lowest floor of the manufactured home is elevated no lower than one (1) foot above the level of the base flood elevation on a permanent foundation;
 - (B) The manufactured home must be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement; and,
 - (C) In or outside of an existing or new manufactured home park or subdivision, or in an expansion of an existing manufactured home park or subdivision, on which a manufactured home has incurred "substantial damage" as the result of a flood, any manufactured home placed or substantially improved must meet the standards of § 14-305(2)(d)(ii)(A) and (B) above.
 - (iii) All recreational vehicles placed on sites must either:
 - (A) Be on the site for fewer than 180 consecutive days;
 - (B) Be fully licensed and ready for highway use; or
 - (C) The recreational vehicle must meet all the requirements for new construction, including anchoring and elevation requirements of $\S 14-305(2)(d)(i)$ or (ii)(A) and (B), above.

A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached structures.

In all areas of special flood hazard where base flood elevation data or floodway data have not been provided, the provisions of § 14-304(3)(h) shall be utilized for all requirements relative to the base flood elevation or floodways.

- (3) Standards for areas of special flood hazard zones A1-30 and AE with established base flood elevation but without floodways designated. Located within the areas of special flood hazard established in § 14-303(2), where streams exist with base flood data provided but where no floodways have been provided, (zones A1-30 and AE) the following provisions apply:
 - (a) No encroachments, including fill material, new structures or substantial improvements shall be located within areas of special flood hazard, unless certification by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one (1) foot at any point within the community. The engineering certification should be supported by technical data that conforms to standard hydraulic engineering principles.
 - (b) New construction or substantial improvements of buildings shall be elevated or flood-proofed to elevations established in accordance with § 14-305(2).
- (4) Standards for areas of shallow flooding (AO and AH zones). Located within the areas of special flood hazard established in § 14-303(2), are areas designated as shallow flooding areas. These areas have special flood hazards associated with base flood depths of one to three feet (1' 3') where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate; therefore, the following provisions apply:
 - (a) All new construction and substantial improvements of residential buildings shall have the lowest floor, including basement, elevated to the depth number specified on the Flood Insurance Rate Map, in feet, above the highest adjacent grade. If no depth number is specified, the lowest floor, including basement, shall be elevated, at least two (2) feet above the highest adjacent grade.
 - (b) All new construction and substantial improvements of nonresidential buildings shall:
 - (i) Have the lowest floor, including basement, elevated to the depth number specified on the Flood Insurance Rate Map, in feet, above the highest adjacent grade. If no depth number is specified, the lowest floor, including basement shall be elevated at least two (2) feet above the highest adjacent grade; or,

- (ii) Together with attendant utility and sanitary facilities be completely flood-proofed to or above that level so that any space below that level is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.
- (c) Adequate drainage paths shall be provided around slopes to guide floodwaters around and away from proposed structures.
- (5) <u>Standards for areas protected by flood protection system (A-99 Zones)</u>. Located within the areas of special flood hazard established in § 14-303(2) are areas of the 100-year flood protected by a flood protection system which is under construction but where base flood elevations and flood hazard factors have not been determined. With these areas (A-99 Zones) the following provisions apply:
 - (a) All provisions of $\S 14-304$ and $\S 14-305(1)$ and (8) shall apply.
- (6) <u>Standards for areas of special flood hazard with established base flood elevation and with floodways designated</u>. Located within the areas of special flood hazard established in § 14-303(2), where streams exist with base flood data and floodways provided, the following provisions apply:
 - (a) No encroachments, including fill material, new construction, substantial improvements or other developments shall be located within designated floodways, unless certification by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed encroachments or new development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood during the occurrence of the base flood discharge at any point within the community. The engineering certification should be supported by technical data that conforms to standard hydraulic engineering principles.
 - (b) If § 14-305(6)(a) above is satisfied, new construction or substantial improvements of buildings shall be elevated or flood-proofed to elevations established in accordance with § 14-305(2).
- (7) <u>Standards for unmapped streams</u>. Located within Signal Mountain, Tennessee are unmapped streams where areas of special flood hazard are neither indicated nor base flood data or floodways have been provided. Adjacent to such streams the following provisions shall apply:
 - (a) In areas adjacent to such unmapped streams, no encroachments including fill material or structures shall be located within an area of at least equal to twice the width of the stream along each side of the stream, unless certification by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the locality.

- (b) When flood elevation data is available, new construction or substantial improvements of buildings shall be elevated or flood-proofed to elevations established in accordance with § 14-304(2)(b).
- (8) <u>Standards for subdivision proposals</u>. Subdivision proposals and other proposed new development, including manufactured home parks or subdivisions, shall be reviewed to determine whether such proposals will be reasonably safe from flooding. If a subdivision proposal or other proposed new development is in a flood-prone area, any such proposal shall be reviewed to assure that:
 - (a) All subdivision proposals shall be consistent with the need to minimize flood damage.
 - (b) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize or eliminate flood damage.
 - (c) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards.
 - (d) Base flood elevation data shall be provided for subdivision proposals and other proposed development (including manufactured home parks and subdivisions) which is greater than fifty lots and/or five acres. (as added by Ord. #92-9, and replaced by Ord. #2003-2, Jan. 2003)

14-306. <u>Variance procedures</u>. (1) <u>Board of zoning appeals</u>.

- (a) <u>Creation and appointment</u>. A board of zoning appeals is hereby established which shall be the existing board of zoning appeals appointed by the Signal Mountain Town Council. Vacancies shall be filled for any unexpired term by the Signal Mountain Town Council.
- (b) <u>Procedure</u>. Meetings of the board of zoning appeals shall be held at such times as the board shall determine. All meetings of the board of zoning appeals shall be open to the public. The board of zoning appeals shall adopt rules of procedure and shall keep records of applications and actions thereon, which shall be a public record.
- (c) Appeals: how taken. An appeal to the board of zoning appeals may be taken by any person, firm or corporation aggrieved, or by any governmental officer, department, or bureau affected by any decision of the building inspector based in whole or in part upon the provisions of this chapter. Such appeal shall be taken by filing with the board of zoning appeals a notice of appeal, specifying the grounds thereof. In all cases where an appeal is made by a property owner or other interested party, any appropriate fee for the cost of publishing a notice of such hearings shall be paid by the appellant. The building inspector shall transmit to the board of zoning appeals all papers constituting the record upon which the appeal action was taken. The board of zoning appeals shall fix a reasonable time for the hearing of the appeal, give public notice thereof, as well as due notice to parties in interest and decide the same

within a reasonable time which shall not be more than seven (7) days from the date of the hearing. At the hearing, any person or party may appear and be heard in person or by agent or by attorney.

- (d) <u>Powers</u>. The board of zoning appeals shall have the following powers:
 - (i) <u>Administrative review</u>. To hear and decide appeals where it is alleged by the applicant that there is error in any order, requirement, permit, decision, determination, or refusal made by the building inspector or other administrative official in the carrying out or enforcement of any provisions of this chapter.
 - (ii) <u>Variance procedures</u>. (A) The Signal Mountain Board of Zoning Appeals shall hear and decide appeals and requests for variances from the requirements of this chapter.
 - (B) Variances may be issued for the repair or rehabilitation of historic structures (see definition) upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum to preserve the historic character and design of the structure.
 - (C) In passing upon such applications, the board of zoning appeals shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this chapter, and:
 - (1) The danger that materials may be swept onto other property to the injury of others;
 - (2) The danger to life and property due to flooding or erosion;
 - (3) The susceptibility of the proposed facility and its contents to flood damage;
 - (4) The importance of the services provided by the proposed facility to the community;
 - (5) The necessity of the facility to a waterfront location, in the case of a functionally dependent facility;
 - (6) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
 - (7) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
 - (8) The safety of access to the property in times of flood for ordinary and emergency vehicles;

- (9) The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and,
- (10) The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.
- (D) Upon consideration of the factors listed above, and the purposes of this chapter, the board of zoning appeals may attach such conditions to the granting of variances as it deems necessary to effectuate the purposes of this chapter.
- (E) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- (2) <u>Conditions for variances</u>. (a) Variances shall be issued upon a determination that the variance is the minimum relief necessary, considering the flood hazard; and in the instance of a historical building, a determination that the variance is the minimum relief necessary so as not to destroy the historic character and design of the building.
 - (b) Variances shall only be issued upon
 - (i) A showing of good and sufficient cause,
 - (ii) A determination that failure to grant the variance would result in exceptional hardship; and
 - (iii) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
- (c) Any applicant to whom a variance is granted shall be given written notice that the issuance of a variance to construct a structure below the base flood level will result in increased premium rates from flood insurance, and that such construction below the base flood level increases risks to life and property.
- (d) The building inspector shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency upon request. (as added by Ord. #92-9, and replaced by Ord. #2003-2, Jan. 2003)

DESIGN PRINCIPLES AND STANDARDS

SECTION

- 14-401. Intent and purpose.
- 14-402. General information.
- 14-403. Projects subject to review.
- 14-404. Definitions.
- 14-405. Appearance criteria.
- 14-406. Building design.
- 14-407. Scale and proportion of building elements.
- 14-408. Exterior forms and materials.
- 14-409. Building or roof mounted equipment.
- 14-410. Signage.
- 14-411. Submittal requirements.
- 14-412. Appeals process.
- 14-413. Project development contract.
- 14-401. <u>Intent and purpose</u>. (1) <u>Intent</u>. To create and maintain a comprehensive program of community beautification and improvement through its commercial buildings and properties by the establishment of guidelines for the development, construction, remodeling, or alteration of all non-single-family residential property within the Town of Signal Mountain.
 - (2) <u>Purpose</u>. (a) To maintain and enhance the property values and taxable value of property in the town.
 - (b) To maintain the town as a predominantly single-family residential community by protecting the character and integrity of present and future residential areas from encroachment by non-compatible land uses.
 - (c) To maintain a balance among land uses within the town by insuring that commercial, industrial and multi-family development do not impair the property values of single-family detached residential development within the town. (as added by Ord. #2012-3, Feb. 2012)
- 14-402. <u>General information</u>. In the case of any ambiguity or apparent conflict between the requirements of the Signal Mountain Design Principles and Standards, the zoning ordinance or other codes, ordinances or regulations, the more restrictive requirement shall govern. (as added by Ord. #2012-3, Feb. 2012)
- 14-403. <u>Projects subject to review</u>. (1) The following types of projects are subject to review by the design review commission for all categories of

construction except single-family residential detached structures regardless of the dollar value of the project:

- (a) New construction including site improvements and signage.
- (b) Moving a structure.
- (c) Demolition or change in use for land, buildings or buildings and land.
 - (d) Planned unit developments.
- (2) The following types of improvements or repairs are subject to review by the design review commission for all categories of construction except single-family residential detached structures where the gross area of the improvements or repairs exceeds twenty-five percent (25%) of the area of those same original improvements.
 - (a) Alteration of exterior appearance not to include painting or re-roofing unless colors change. Example: If the area of exterior building repair or replacement exceeds twenty-five percent (25%) of the total surface area of the building (excluding flat roofs) then the project is subject to the commission's review based on compliance with these principles and standards.
 - (b) Paving. Example: If the area of paving repair in a parking lot exceeds twenty-five percent (25%) of the original area of site improvements (i.e., paving, sidewalks, landscaping, curb work, etc.) then the project would be subject to the commission's review based on compliance with these principles and standards.
 - (c) Landscaping. (as added by Ord. #2012-3, Feb. 2012)
- 14-404. <u>Definitions</u>. (1) "Appearance." The outward aspect visible to the public.
- (2) "Applicant." The party who has been assigned the rights by the owner to seek approval from the commission.
- (3) "Appropriate." Sympathetic fitting the context of the site and the whole community.
- (4) "Attractive." Having qualities that arouse interest and pleasure in the observer.
- (5) "Berm." A raised form of earth to provide screening or to improve the aesthetic character.
 - (6) "Commission." The Signal Mountain Design Review Commission.
- (7) "Compatibility." Harmony in the appearance of two (2) or more external design features in the same vicinity.
 - (8) "Council." The Signal Mountain Town Council.
- (9) "Harmony." A quality that represents an appropriate and congruent arrangement of parts, as in an arrangement of varied architectural and landscape elements.

- (10) "Landscaping." Plant materials, topography, and other natural physical elements combined in relation to one another and to man-made structures.
- (11) "Owner." The term owner shall refer to the party, which by rights and responsibilities conveyed through title, lease or rental agreement is charged with the responsibility of providing the improvements described in these principles and standards. In the absence of any agreement the owner shall be defined as the person or entity that holds title to the land.
- (12) "Proportion." The balanced relationship of parts of a building, landscape, structures, or buildings to each other and to the whole.
- (13) "Public amenity." An element, either natural or built, which is attractive and accessible to the public.
- (14) "Scale." Proportional relationship of the size of parts to one another and to the human figure.
- (15) "Shall." The term "shall" as used in the design manual indicates a requirement for adherence to the noted guidelines.
- (16) "Should." The term "should" as used in the design manual indicates a strong desire by the commission to have the owner incorporate the noted ideas into the project. While not a mandatory requirement the user is strongly encouraged to follow the guidelines and the commission will look at the overall cooperation of the owner in final approval of plans where latitude is granted.
- (17) "Sign." Any device, fixture, placard or structure affixed to, supported by or suspended by a stationary object, building or the ground that uses any color, form, graphic, illumination, symbol or writing to communicate information of any kind or to attract the attention of the public.
- (18) "Siting." The process of placing a building and its related elements on a piece of property.
- (19) "Streetscape." The scene as may be observed along a public street or way composed of natural and man-made components, including buildings, paving, planting, street hardware, and miscellaneous structures.
- (20) "Town." The Town of Signal Mountain. (as added by Ord. #2012-3, Feb. 2012)
- 14-405. <u>Appearance criteria</u>. (1) <u>Site design and layout</u>. The relationship of a building to a site and the adjoining areas.
 - (a) Site planning with setbacks and yards in excess of zoning restrictions is encouraged to provide an interesting relationship between buildings. Setbacks established as part of a Planned Unit Development (PUD) are also encouraged.
 - (b) Parking areas shall be treated with decorative elements, such as building wall extensions, plantings, berms or other innovative means to enhance the appearance of parking areas.

- (c) Buildings and improvements on the site should be organized to minimize changes to existing topography and the loss of existing mature vegetation.
- (d) Smooth topographic transitions should be provided at the edges of properties. Slope of 1:3 (rise to run) or shallower are encouraged but in no case shall slopes be steeper than allowed by ordinance or regulation.
- (e) Adjacent buildings of different architectural styles shall be made compatible by such means as screens, sight breaks or similar materials.
- (f) Attractive landscape transition to, or buffers from, adjoining properties shall be provided.
- (2) <u>Landscaping and site treatment</u>. The overall landscape design should complement and contribute to beauty and utility of the development.
 - (a) Plant material shall be selected for its structure, texture, color, and its ultimate growth. Plants shall be hardy and harmonious to the design.
 - (b) Where healthy plant material exists on a site prior to its development, the commission may allow credit for such plant material if such an adjustment is in keeping with the intent of these standards and principles and provided that the existing plant material remains protected and ecologically healthy after the construction process.
 - (c) In areas where general planting will not prosper, other materials such as fences, walls, and paving of wood, brick, stone, river gravel, and cobbles shall be used. Carefully selected plants shall be combined with such materials where possible. The owner also has the option to use any of the above materials in combination with planting to achieve a good visual image where planting alone is noted in this section.
 - (d) The perimeter of parking areas, or other vehicular use areas, bordering public streets or adjacent property should consist of a planting area at least ten feet (10') in depth. Exceptions may be made if such areas are screened visually from an abutting right-of-way or adjacent property. Landscaping in these areas is to include one (1) tree with a minimum caliper of two to two and one-half inches (2"--2 1/2") every twenty-five (25) linear feet or fraction thereof in combination with shrubbery.
 - (e) Off-street parking areas shall have at least five (5) square feet of interior landscaping for each parking space excluding those spaces abutting a landscaped perimeter or spaces that are directly served by an aisle abutting and running parallel to such a perimeter.
 - (f) As a general standard, there should be at least one (1) tree, of at least two and one-half inches (2 1/2") caliper, planted for each three hundred (300) square feet of parking area islands. The total number of trees shall not be less than one (1) tree every fifty (50) linear feet or fraction thereof of required interior landscaped area.

- (g) Shrubbery should be used as a design element to transition from the vertical nature of trees or building elements to the horizontal portions of the site such as grass, paving and ground cover. Except for plants listed as "prostrate" type, the minimum spread of any shrubbery shall be eighteen inches (18").
- (h) Grass areas may be seeded, sprigged, plugged or sodded in all areas except solid sod shall be used in swales, slopes greater than 1:3 or other areas subject to erosion.
- (i) Shrubbery and ground covers shall be sized and spaced in a manner that will present a finished appearance with reasonably complete coverage, under normal growing conditions within one (1) year after planting.
- (j) Where bark chips, mulch, pine needles or other non-living materials are used as a ground cover they shall be contained by use of perimeter curbing and properly sloped to prevent erosion.
- (3) <u>Plant installation, maintenance and irrigation</u>. (a) Continued maintenance of landscaped area is the responsibility of the property owner. Planting plans must be maintained as originally designed and approved. Any diseased, dying or dead plants should be treated or replaced by the property owner.
- (b) Irrigation is strongly encouraged to ensure adequate moisture in planting areas. Irrigation systems must be installed below-ground, with spray heads flush with the ground surface where they might pose a safety hazard. Exposed heads may be used in planting areas or other areas remote from normal pedestrian access. Irrigation is not required where the owner can demonstrate the proper use of vegetation found naturally in the native woods of Signal Mountain.
- (c) When plant materials are installed, they shall be healthy plants installed according to accepted commercial planting procedures and maintained in a healthy condition.
- (d) In locations where plants will be susceptible to injury by pedestrian or motor traffic, appropriate curbs, guards, barriers, or other devices shall protect them.
- (e) Where planting cannot reasonably be accomplished before building occupancy the owner shall furnish a bond or other acceptable guaranty equal to the cost of all site landscaping to the Town of Signal Mountain guaranteeing the installation at the first season when installation can reasonably be expected to produce healthy plants.
- (4) <u>Screening</u>. Screening may be accomplished by using fences and/or planting:
 - (a) Service yards, garbage collection areas, utility meters, heating and air-conditioning equipment, outside equipment storage, vending machines and other places that tend to be unsightly shall be screened by use of walls, fencing, planting, or combinations of these.

- (b) Screening shall be equally effective in winter and summer.
- (c) Opaque screening at least six feet (6') in height shall enclose garbage collection areas. In the event that the collection areas enclose dumpsters or other equipment, the screening should be at least two feet (2') taller than the equipment, and not less than six feet (6') in height.
- (d) The maximum heights of fences should generally be six feet (6'), except for tennis court fences, which may be ten feet (10') and fencing at garbage collection areas. The use of chain link, plastic or wire fencing is not permitted for fences in yards abutting streets.
- (e) Fences designed to create privacy or separations should be made of materials compatible with the designs of the building.
- (f) Solid fences should not create a stockade appearance. The use of offsets and adjacent planting is encouraged. Fences facing streets shall have no more than forty feet (40') in a straight line unless appropriate landscaping treatment and/or design elements create unusual breaks to eliminate the straight-line appearance.
- (g) Screening by plantings requires the use of evergreen plants to provide effective year round screening. Evergreen screening may be enriched with plants having seasonal color variation.
- (h) When a berm is used to form a visual screen in lieu of, or in conjunction with other screening elements; such berm shall be completely covered with shrubs, grass or other living ground cover.
- (i) Changes in elevation or earth berms may be used along the perimeter of parking areas to reinforce planting screens. The slope of earth should not exceed 1:3 rise to run, and should be densely planted with ground cover or shrubs to prevent erosion.
- (5) <u>Miscellaneous landscaping requirements</u>. (a) All required landscaping, except planting covered by a bond or other acceptable guaranty, shall be in place prior to final inspection and approval by the building inspector. On-site areas adjacent to streets and the front lawn areas must be established or be sodded prior to occupancy of the project.
- (b) No landscaping element or similar item shall be installed or maintained in the vicinity of any corner, street, intersection or access way intersecting a public right-of-way that, in the opinion of the commission or building inspector is an obstruction to visibility or is a traffic hazard.
- (c) Where site runoff requires detention areas, the areas should be attractively designed.
- (6) <u>Site lighting</u>. Exterior lighting and building fixtures shall be of a design and size comparable with the building and adjacent areas.

Lighting shall be restrained to avoid excessive brightness. Site lighting in excess of twenty (20) footcandles shall not be allowed except under canopies where motor fuels are dispensed, under covered walkways, for automated bank tellers or other similar uses that require a higher light level by a regulatory agency.

- (7) <u>Parking and paved areas</u>. The visual impact of parking areas should be subdued.
 - (a) Parking areas should be organized as a series of small parking bays with planted islands separating them. As a general guideline, no more than ten (10) contiguous parking spaces are recommended.
 - (b) If, in the opinion of the commission, bicycle traffic is anticipated parking facilities should be provided within commercial or retail areas. These facilities should not interfere with pedestrian movement.
 - (c) The bumper overhang of a vehicle may encroach upon any interior landscaped area when said area is at least three and one-half feet (3 1/2') in depth per abutting parking space and protected by wheel stops or curbing. Two feet (2') of said landscaping area may be part of the required depth of each abutting parking space.
 - (d) Preservation of existing healthy trees in parking areas is encouraged.
 - (e) Parking areas shall be paved with asphalt, concrete, or masonry materials. Asphalt shall not be used for paving sidewalks. (as added by Ord. #2012-3, Feb. 2012)
- 14-406. <u>Building design</u>. (1) While a diversity of architectural styles is encouraged, structures generally should be domestic in scale and be compatible with the character of the single-family community.
- (2) Lengthy unbroken facades should be avoided. As a general guide, the maximum horizontal length of an unbroken facade plane should be fifty feet (50') in residential districts, and seventy-five feet (75') in commercial and office districts. Facade offsets should be sufficient to create a strong shadow line.
- (3) Roofs should project beyond the facade. Flat roofs are discouraged, but if flat roofs are used a quality cornice line shall be used. (as added by Ord. #2012-3, Feb. 2012)
- 14-407. <u>Scale and proportion of building elements</u>. (1) Buildings and structures shall be designed based on accepted architectural principles for scale, mass, rhythm and proportion.
- (2) The height, width and proportions of a building should create a pleasing visual experience with the other buildings and open spaces in the immediate vicinity.
- (3) The height and width of roofs should project beyond the facade. Flat roofs are discouraged, but if flat roofs are used a quality cornice line shall be used. Building elements such as doors, windows and other openings shall have scale and proportions that are in harmony with the building yet create a strong human scale. (as added by Ord. #2012-3, Feb. 2012)

- 14-408. Exterior forms and materials. (1) The commission requires building materials that are lasting in quality, residential in scale, have good architectural character and appearance.
- (2) Durable grades of materials such as stone, brick, wood and stucco are preferred. Synthetic and imitation materials are generally considered inappropriate but may be approved on a case-by-case basis. EIFS Systems (proprietary names of "Sto" or "Drivit") are acceptable equals to stucco.
- (3) The use of windows and doors similar in appearance to those used in residential structures is encouraged. Large expanses of glass are discouraged unless they are broken up into smaller components by the use of window mullions.
- (4) Painted or factory finished metal should be used with great care and is normally only acceptable for windows, doors, roofs and trim preferably in non-metallic colors. Metal siding is generally considered unacceptable.
- (5) Plywood and hardboard siding should be avoided unless it is broken up into smaller components by the use of reveals, battens or other design features.
- (6) Large expanses of concrete shall be avoided unless the scale of the material is reduced through the use of offsets and texture.
- (7) The use of standard three-tab shingles are normally not acceptable but will be considered on a case-by-case basis. Dimensional asphalt/fiberglass shingles, cedar shakes, slate, or metal shingle or seam roofs are acceptable. (as added by Ord. #2012-3, Feb. 2012)
- 14-409. <u>Building or mounted equipment</u>. (1) All roof and building-mounted equipment such as air-conditioning units, exhaust fans, vents, satellite dishes, and other similar devices be fully screened from public view. Screening materials shall be of the same general character and compatible with the materials used for walls and roofs.
- (2) Building lighting requirements noted under "Site lighting" shall also apply to building lighting.
- (3) The use of custom hardware, which is in character with the building development, is encouraged over the use of standard, prefab hardware. The use of custom enclosures is also encouraged.
 - (a) Customized hardware. Miscellaneous structures and hardware such as mailboxes, trash receptacles, benches, and grocery cart racks, bicycle racks, planting pots, etc. shall be designed to be part of the design concept for the building development.
 - (b) Standard hardware. It is recognized that some hardware such as newspaper vending machines, ice machines and soft drink vending machines cannot be easily customized. However, unless properly screened or enclosed these types of devices shall be factory or field-painted with muted colors and have all backlighting covered or removed.

- (c) Exceptions. Utility buildings used for the storage of equipment or supplies where the equipment or supply storage is not the primary function of the business may use metal building components and discard other subsections of the section of "Building design" providing that the building is completely screened with berms or permanent evergreen vegetation and is not visible from any public access or private residence. (as added by Ord. #2012-3, Feb. 2012)
- 14-410. <u>Signage</u>. Applicants are urged to study the sign regulations for specific requirements on sizes and dimensions, types, siting restrictions and other requirements. Signs in Signal Mountain are controlled in order to preserve and not detract from the natural surroundings of the community. For submittal requirements for signage see Signal Mountain Code, title 14, chapter 5.
 - (1) <u>Sign types</u>. (a) Ground-mounted signs are to be integrated into the landscaping plan.
 - (b) Building directory signs should not be apparent from the street, but should be designed to direct people to individual tenants once they have reached the building.
 - (c) Signs mounted on buildings should be integrated with the architecture of the building, and generally should not project above or beyond the drip line of sloped roof buildings. They should be placed on the building background or other neutral surface and be located either above windows, adjacent to entry doors, or on surfaces such as fascias specifically designed for signage.
 - (d) Traffic directional signs should incorporate conventional instruction and symbols but should be integrated in form and character with other signage or landscape elements on the site. Standard painted steel "hat channel" posts are not acceptable. (Research to see if meets FED standards.)
 - (e) Signs identifying miscellaneous structures and hardware as defined in Section 206¹ shall be displayed on the surface of the device in

¹Ord. #2012-3 referred to Section 206. This section was previously found in Appendix C, The Signal Mountain Design Review Commission Design Principles and Standards, which was moved and replaced by Ord. #2012-3. Section 206 is referred to in its entirety below:

²⁰⁶ Miscellaneous Structures and Hardware

^{206.1} Design Intent. The use of custom hardware which is in character with the building development is encouraged over the use of standard, prefab hardware. The use of custom enclosures is also encouraged.

- such a manner that they do not "shout" for attention. Where several similar devices are used such as newspaper vending machines the signage shall be consistent and uniform.
- (2) <u>Design criteria</u>. (a) Signage should be consistent in size, material and location within each development. Signs should be designed as an architectural element of the building and should reflect or complement the architectural style of the building.
- (b) Signs can consist of individual letters and numbers. The use of logos or some graphic elements may be permitted. Generally such graphic elements are restricted to no more than ten percent (10%) of the sign area. Small signs (less than twelve (12) square feet) may be monolithic particularly where the size and style of the framing adds richness to the final appearance.
- (c) Illumination of signs, where permitted, should be shaded, shielded, subdued or directed so that the light intensity will not create glare or be objectionable to surrounding areas. Exposed bulbs are not allowed.
- (d) Signs should not attract attention excessively. Specifically precluded are signs that are an imitation of traffic signals or may be confused with them; have moving parts; are changing, blinking, flashing or fluttering; have reflective materials, pulsating light or strobe lights or are beacons.
- (e) Signs shall be self-supporting without the use of guy wires or unsightly bracing. (as added by Ord. #2012-3, Feb. 2012)
- 14-411. <u>Submittal requirements</u>. (1) Applicants are encouraged to submit preliminary information at the schematic design phase of a project to allow preliminary review before a large investment has been made in construction documents. Failure of the applicant to submit preliminary plans will not relieve him/her of compliance with requirements of the design standards. While the commission will endeavor to make appropriate comments and recommendations at the preliminary phase, this early review will not

such as mailboxes, trash receptacles, benches, grocery cart racks, bicycle racks, planting pots, etc. shall be designed to be part of the design concept for the building development.

206.3 Standard Hardware. It is recognized that some hardware such as newspaper vending machines, ice machines and soft drink vending machines cannot be easily customized. However, unless properly screened or enclosed these types of devices shall be factory or field-painted with muted colors and have all backlighting covered or removed.

¹(...continued)

eliminate the requirement for a final review and approval by the commission prior to any construction.

- (2) <u>Minimum final submission documentation</u>. All illustrations shall be drawn to scale.
- (3) New construction, remodeling and renovation. Two (2) sets of the following information shall be submitted to the building official at least eleven (11) days prior to a regularly scheduled meeting of the commission. The information shall be complete enough to illustrate all design information, dimensional data, and quality of materials, colors, and textures. Where remodeling or renovation is planned the unaffected items may be deleted from the submission if color photographs are provided indicating all present conditions:
 - (a) Site plan including topographic elevations and property improvements.
 - (b) Site landscaping plan indicating all planting, screening, and fencing, etc.
 - (c) Site utility plan indicating drainage, exterior lighting, and all utility services.
 - (d) Exterior elevation drawings of all sides of the building.
 - (e) Sample boards indicating materials, colors and textures of the exterior.
 - (f) Garbage collection point and proposed screening.
 - (g) Parking layout.
 - (h) Master signage plan. If the structure is a multi-tenant facility, a master sign plan shall be submitted indicating all proposed signs with locations, sizes, styles, and types of messages. The approved master sign plan will be the basis for approval of all subsequent tenant signs. Single-tenant buildings shall meet the signage submittal requirements of the sign regulations (title 14, chapter 5, § 14-503).
 - (i) Floor plans (or similar drawings of exterior walls) in sufficient detail to indicate all perimeter offsets.
 - (j) Construction manuals or specifications where detailed information is not indicated in other documents.
 - (k) Vicinity plan indicating buildings in adjacent lots with photographs of those structures.

Note: It is the intent of the commission to review the applicant's information promptly. However, the commission review and approval is only one step in the construction process. In no case may construction start without all required regulatory agency permits and approvals including a building permit from the Town of Signal Mountain. (as added by Ord. #2012-3, Feb. 2012)

14-412. <u>Appeals process</u>. Applicants whose plans are conditionally approved or are disapproved by the commission may appeal the commission's action to the town council. Appeals to the council shall be filed with the town

manager ten (10) days prior to the next regular meeting of the council not more than sixty (60) days after the date of the commission's action. The members of the commission will be notified of the appeals request and will be given the opportunity to address the council. The council, after hearing all parties who desire to be heard, shall approve, approve with conditions, or not approve the application by a written statement setting forth the reasons for its action. If the council approves or conditionally approves the application, the building official may issue the building permit forthwith provided that the applicant has complied with the terms of approval or conditional approval; with other provisions of this section, and with all other codes, ordinances, regulations and procedures regarding building permits. (as added by Ord. #2012-3, Feb. 2012)

14-413. Project development contract. A project development contract incorporating, among other elements, any conditions or requirements imposed on the applicant pursuant to this chapter, must be executed by and between the commission and the applicant or, when appealed and approved, between the council and the applicant before a building permit can be issued for any development outlining the requirements in writing, in addition to any drawings or sketches.

Copies of the project development contract to be executed after commission or council approval of the project are available from the town office. (as added by Ord. #2012-3, Feb. 2012)

CHAPTER 5

SIGN REGULATIONS

SECTION

- 14-501. Intent and purpose.
- 14-502. Definitions.
- 14-503. Application procedure.
- 14-504. Review process.
- 14-505. Exempt signs.
- 14-506. Prohibited signs.
- 14-507. Banners.
- 14-508. Design principles and guidelines.
- 14-509. Allowable signage.
- 14-510. Types of signs.
- 14-511. Determining sign area.
- 14-512. Sign height and clearance.
- 14-513. Sign illumination.
- 14-514. Non-conforming signs.
- 14-515. Appeals.
- 14-516. Variances.
- 14-517. Sign maintenance.
- 14-518. Enforcement.
- 14-519. Abandoned signs.
- 14-520. Penalties.

14-501. <u>Intent and purpose</u>. The town recognizes and supports the rights of businesses, services, organizations and residents to identify themselves or their products, activities and services. The intent of these regulations is to protect residential property values and to create and maintain an attractive and successful business community by avoiding the wasteful and unsightly competition of signage within the town.

The purpose of these regulations is to establish criteria as to the size, height, design, quality of materials, construction, location, illumination and maintenance of signs and sign structures. These regulations are further established to regulate commercial and private signage and lighting that may overload the public's capacity to receive information as well as to protect the public health, safety and welfare by decreasing the probability of accidents by distracting attention or obstructing vision.

Signage that directs persons to various businesses, services and activities that is in keeping with the quality and character of the community will enhance the community's economic value and coordinate the mutual desire of the business and residential communities to maintain, preserve, and enhance the scenic and natural beauty of the Town of Signal Mountain.

In the case of any ambiguity or apparent conflict between the requirements of the Signal Mountain Design Principles and Standards, the sign regulations, the zoning ordinance or other codes, ordinances or regulations, the more restrictive requirement shall govern.

In addition to these regulations, all state, federal and local fire, building and safety codes shall apply as well. Provisions for the administration, enforcement and appeals of these regulations are included, as well as provisions for the elimination of non-conforming signs. (as added by Ord. #2012-3, Feb. 2012)

- 14-502. <u>Definitions</u>. The following words and phrases, as used in this chapter, shall have the meanings ascribed to them in this section:
- (1) "A-frame sign." Any two-sided sign including sandwich boards, hinged or attached at the top of the sign panels, identifying, advertising or directing attention to a business, product, operation or service sold or offered in the building in front of which the sign is located during business hours.
- (2) "Abandoned sign." Any sign that contains or exhibits broken panels, visible rust, visible rot, damaged support structures, missing letters or which is otherwise dilapidated, unsightly, unkempt, and for which no person accepts maintenance responsibility or a sign for a business that is out of business for over thirty (30) days.
- (3) "Animated sign." Any sign, or part of a sign, that uses movement or change of lighting or color to depict action or create a special effect or scene.
- (4) "Audible sign." Any sign that emits a sound that is audible or emits a signal that can be converted into audible sounds, whether by radio or other means.
- (5) "Awning/canopy sign." Any sign that is a part of or attached to an awning, canopy or other fabric, plastic or structural protective cover over a door, entrance, window, or outdoor service area. A marquee is not a canopy. This definition does not apply to automotive service stations.
- (6) "Banner." A temporary sign other than a flag with or without characters, letters, illustrations or ornamentation applied to cloth, paper, vinyl or fabric that is intended to be hung either with a frame or without a frame.
- (7) "Beacon." Any light with one (1) or more beams directed into the atmosphere or directed at one (1) or more points not on the same lot as the light source; also, any light with one (1) or more beams that rotate or move.
- (8) "Billboard." A freestanding sign containing information for an off-site business or organization with an area of more than one hundred twenty (120) square feet.
- (9) "Business." An organization or enterprising entity engaged in commercial, industrial or professional activities.
- (10) "Changeable copy sign, manual or electric." Any sign that incorporates changing lights, lettering or images to form a sign message or messages, whether such changes are accomplished electronically, automatically

or manually and whether or not the message is composed of electrically illuminated segments. This definition includes marquee, reader boards and electronic message boards.

- (11) "Channel letter." A fabricated or formed three-dimensional letter.
- (12) "Commerce center." A building or buildings on a single lot occupied by two (2) or more businesses.
- (13) "Directional sign." An on-premise sign whose message is exclusively limited to guiding the circulation of motorists and/or pedestrians.
- (14) "Directory sign." Used for multi-tenant buildings to provide a directory of tenant locations within the building.
- (15) "Flag." Any fabric or bunting containing colors, patterns, or symbols used as a symbol of a government or other legal entity or legally organized organization.
- (16) "Flashing sign." A sign with illumination that is not kept constant in intensity at all times when in use and that exhibits marked changes in lighting effects.
- (17) "Freestanding sign." Any sign supported by stanchions or supports that are placed on or anchored in the ground that is independent from any building or other structure.
- (18) "Glazing." Sheets of glass including framing set into windows and doors on a given wall. See "window."
- (19) "Graffiti." Unauthorized writing or drawing on the facade of any building, sign, path, accessory structure, wall, fence or other site element.
- (20) "Graphic design." Any artistic design or portrayal depicted on an exterior wall, fence, awning, window or other structure which is visible from any public right-of-way, and which has as its purpose artistic effect, and not the identification of the premises or the advertisement or promotion of the interests of any private or public firm, person, or organization.
- (21) "Height." The height of a sign shall be measured from the ground adjacent to the sign to the top of the sign and support structure. If the ground under the sign slopes, the height shall be measured from the average grade under the sign itself.
- (22) "Illuminated sign, external." A sign illuminated by an external light source.
- (23) "Illuminated sign, internal." A sign illuminated by an internal light source.
- (24) "Light, full cut-off." A luminaire that has no direct up-light (i.e., no light emitted above horizontal).
- (25) "Light, fully shielded." A lighting fixture constructed in such a manner that all light emitted by the fixture, either directly from the lamp or a diffusing element, or indirectly by reflection or refraction from any part of the luminaire, is projected below the horizontal as determined by photometric test or certified by the manufacturer. Any structural part of the light fixture providing this shielding must be permanently affixed.

- (26) "Light-box sign." A cabinet-type fixture.
- (27) "Lot." A parcel of land that is of sufficient size to meet minimum zoning requirements for lot area, coverage, and use and that can provide such yards and other open spaces as required by the provisions of the zoning ordinance.
- (28) "Marquee sign." A sign with changeable copy placed on any permanent roof-like structure projecting beyond a building or extending along and projecting beyond the wall of the building, generally designed and constructed to provide protection from the weather.
- (29) "Menu board sign." A permanently mounted sign displaying the type and price of food and beverages for a drive-through restaurant.
- (30) "Monument." A freestanding sign with a base width greater than or equal to the width of the sign face.
- (31) "Moving sign." A sign that revolves, rotates, swings, undulates or otherwise attracts attention through the structural movement of parts.
- (32) "Multi-tenant." One (1) or more buildings, located on a single premise or development, containing two (2) or more separate and distinct individual establishments that occupy separate portions of the building or buildings and are physically separated from each other by a demising wall, a boundary that separates one tenant's space from that of the other and from a common corridor.
- (33) "Multiple-faced sign." A sign constructed to display its message either on a curved surface or on two (2) or more planar surfaces.
- (34) "Nameplate." A sign with a message that identifies only the name and/or address of the occupant.
- (35) "Neon sign" and "faux neon." Signs made using electrified, luminous tube lights that contain rarefied neon or other gases or backlit signs that have the appearance of using electrified, luminous tube lights that contain neon or other gases.
- (36) "Non-conforming sign." A non-conforming sign is a sign that was lawfully installed prior to the effective date of these regulations, or a subsequent amendment thereto, that as a result no longer conforms to the sign regulations.
 - (37) "Off-site sign." Means a sign that is not an "on-site sign."
- (38) "On-site sign." Means a sign located on the same parcel of land from which the product, service or activity described by the sign is made available.
- (39) "Pennant" or "streamer." Any lightweight plastic, fabric or other material, whether or not containing a message of any kind, suspended from a rope, wire or string, usually in a series, designed to move in the wind.
- (40) "Permanent sign." Any mention of a sign in this chapter shall be considered to mean "permanent sign" unless a time limit is specified or such sign is referred to as a "temporary sign."
- (41) "Permit." A sign permit reviewed, approved and issued by the Town of Signal Mountain.

- (42) "Permittee." The person and/or entity owning or leasing the land on which the sign is to erected or for which an application has been submitted.
- (43) "Person." A natural or legal entity including a firm, organization, partnership, trust and corporation.
- (44) "Pole sign." A freestanding sign mounted on a single-structural support.
- (45) "Political sign." A sign with a message advocating a particular candidate, party or proposition.
- (46) "Portable sign." A sign that is not permanently affixed to the ground or a structure and is designed to be moved from place to place. Examples include A-frame signs or sandwich boards that are self-supporting after setup.
- (47) "Post and panel." A freestanding sign supported by more than one (1) structural support.
- (48) "Principal building." The building where the principal use of the lot is conducted. Non-residential lots with multiple principal uses may have multiple principal buildings, but storage buildings, garages, and other structures with clearly accessory uses shall not be considered principal buildings.
- (49) "Projecting sign." A sign erected upon a building wall or canopy and projecting more than twelve inches (12") outward from the plane of the building face.
- (50) "Public sign." All classes of government signage including but not limited to traffic, health and public safety; crime control and prevention; official notices or advertisements related to any court action; the location of underground utilities; and any other community service sign approved by the town.
- (51) "Reader board sign." A sign constructed to display an advertising message that may be changed by manual, electronic or other manipulation of letters or numbers on its face(s).
- (52) "Real estate sign." A temporary sign with a message announcing the offer to build on, sell, rent or lease the premises upon which it is displayed.
- (53) "Right-of-way." Public property or easement in which signage is regulated by the federal provisions of the "Manual of Uniform Traffic Control Devices."
- (54) "Roof sign." Any sign erected and constructed wholly on and over the roof of a building or supported by the roof structure.
- (55) "Sign." Any device, fixture, placard or structure affixed to, supported by, or suspended by a stationary object, building or the ground that uses any color, form, graphic, illumination, symbol or writing to communicate information of any kind or attract the attention of the public.
- (56) "Sign face." The part of a sign that is or can be used for advertising or informational purposes.
- (57) "Sign kiosk." A freestanding bulletin board having three (3) or more faces intended for the posting of temporary flyers or notices.

- (58) "Special event sign." A temporary banner or sign with a message identifying a civic or public event or holiday.
- (59) "Subdivision/residential development entrance features." Any permanent wall, fence, building or architectural element constructed to mark the entrance of a subdivision or other residential development located in a sign easement, common area or private property.
- (60) "Subdivision/residential development entrance sign." A sign that identifies a subdivision or residential development by name that is part of or placed on an entrance feature located in a sign easement, common area or on private property at the entrance of the subdivision or residential development.
 - (61) "Temporary sign." Any sign of non-permanent nature.
 - (62) "Town council." The Town Council of the Town of Signal Mountain.
 - (63) "Town." The Town of Signal Mountain.
- (64) "Vehicle sign." A vehicle sign is a sign attached to or placed in or on a truck, bus, car, trailer, boat, recreational vehicle, or any other vehicle. Vehicle signs shall exclude bumper stickers, license plates, inspection and registration stickers as well as "For Sale" signs as related to the sale of that vehicle.
- (65) "Wall sign." Any sign attached parallel to a wall or erected and confined within the limits of an outside wall of any building or structure, which is supported by such wall or building, that displays only one (1) sign face.
- (66) "Water tower." A tower or standpipe serving as a reservoir to deliver water at a required head whether in use, no longer in use or an architectural feature.
- (67) "Window." The uninterrupted aggregate of the glazing including framing set into windows and doors on a given wall. See "glazing."
- (68) "Window sign, permanent." A sign that is affixed to the interior of the window or within three (3) feet of the interior of the window that is visible from the exterior of the structure and that includes lettering, logos, gaseous illuminated "Open" signs or other informational signage. Merchandise displayed for sale is excluded.
- (69) "Window sign, temporary." Signs or banners of a temporary nature either interior or exterior such as "grand opening," "going out of business" and "special sales" or "promotions." See § 14-507 (Banners) of this chapter for guidelines. Note temporary commercial window signage shall not exceed fifteen (15) square feet.
- (70) "Yard sign." A temporary sign displayed on the days when a garage sale, yard sale, moving sale, estate sale or similar event involving the occasional sale of used household goods on residential property occurs. A yard sign may also publicize the arrival of a baby, the participation of a family member in an activity or sport or may give directions to a special event. (as added by Ord. #2012-3, Feb. 2012, and amended by Ord. #2013-08, May 2013, and Ord. #2014-09, Oct. 2014)

14-503. Application procedure. (1) General. All signs regardless of zoning designation shall be subject to review by the Town of Signal Mountain Design Review Commission. The only exceptions to such review shall be for signs which are eligible for administrative approval per § 14-504(1) of these regulations, or signs listed under "exempt signs" per § 14-505 of these regulations; or signs undergoing normal maintenance in conformance to their original appearance shall not require DRC review or approval.

Application forms to apply for DRC sign permits are available at the town hall. Applicants are advised to consult the building official and familiarize themselves with the sign regulations prior to the purchase or the installation of any signage.

Note: Signs requiring construction of posts, pedestals, bases or other framework shall also require a building permit that the building official will also issue upon the approval of a proposed sign by the DRC.

(2) <u>Application for sign permit</u>. The owner or his designated agent shall submit an application and all required documentation for a DRC sign permit along with the appropriate fee to the building official for referral to the design review commission. The building official will notify both the DRC and the applicant of the day and time of the hearing and confirm their ability to attend.

A completed application along with one (1) paper copy and one (1) PDF of the following documentation are required for DRC review:

- (a) A written description of the desired signage. The description may be brief, but shall include information on existing conditions and each element of the overall project.
- (b) Fully labeled color photographs of the property and proposed signage locations.
 - (c) Scaled drawings of proposed signage:
 - (i) Drawings for wall signs must include a scaled drawing of the building face on which the signage will be placed.
 - (ii) For freestanding signs, a site plan must include the location of signage and the relationship to existing buildings and other site features on the property.
- (d) A list of proposed materials and colors, including manufacturer's specifications. If possible, materials/samples should also be brought to the meeting.
- (e) Information illustrating the design and type of lighting, if any, including detailed manufacturer specifications of the fixture shall be submitted.
- (3) <u>Application for subdivision/residential development entrance</u> <u>features</u>. Copies of construction plans and elevations for subdivision entrance structures or features shall be submitted to the town building inspector with specific identification of proposed location, property lines, setbacks, distances from rights-of-way, measurements, and materials to be used prior to submittal

to the town design review commission. No construction of improvements at the entrance of any subdivision or residential development shall begin prior to the review and approval of the design review commission. (as added by Ord. #2012-3, Feb. 2012, and amended by Ord. #2014-09, Oct. 2014 and Ord. #2015-07, Oct. 2015)

14-504. Review process. The building inspector shall determine whether or not an application for signage is complete (see § 14-503(2)). If not completed, the building inspector shall defer the application and inform the applicant that more information is necessary before the review process can begin. The building inspector will issue no more than one (1) deferral until the next meeting of the DRC due to an incomplete application. Thereafter, the applicant must reapply.

Upon receipt of a complete application, the building inspector will determine if the proposed signage meets the criteria for administrative approval or must be submitted to the DRC for approval.

- a completed sign application for a new or replacement sign for an existing building, the inspector may approve the application administratively without DRC review. However, any signs proposed when done in conjunction with a broader renovation or rehabilitation of an existing building will be referred to the DRC for approval. The building inspector may only administratively approve or deny signs and issue sign permits for applications which meet the objective criteria of this section and the building inspector reserves the right to refer any sign, particularly those with unusual or questionable characteristics, to the DRC for review and approval. Signs denied by the building inspector through the administrative approval process are automatically referred to the DRC for consideration at the next meeting of the DRC.
- (2) <u>Design review commission review process</u>. Within sixty (60) days of the receipt of a completed sign application the DRC shall act to approve, deny, defer, or conditionally approve the proposal and instruct the building inspector to issue or deny a sign permit. The DRC shall set forth in writing its decision to approve, deny, or conditionally approve the proposal for signage as well as the factual reasoning supporting it.

In cases of disapproval or conditional approval by the DRC, the DRC shall advise the applicant of the right of appeal to the town council provided in § 14-515 (appeals) of this chapter. The DRC shall submit written comments to the town council prior to its scheduled hearing of an appeal as to how the disapproved or conditionally approved signage could be modified to meet the requirements set forth in this chapter which shall be retained as part of the record of the town council on any appeal. The town council shall consider the written comments and the testimony of any witnesses concerning the denial or conditional approval of any proposed signage timely appealed from the DRC.

Graphic design and graphic elements, as part of the sign face, such as sign color, font, logo, text, shape and pictures are not reviewed by the town staff

or DRC unless as determined by the building inspector. This exemption from review does not include the structures supporting the sign or sign lighting. (as added by Ord. #2012-3, Feb. 2012, replaced by Ord. #2013-08, May 2013 and Ord. #2015-07, Oct. 2015, and amended by Ord. #2015-09, Oct. 2015)

- 14-505. Exempt signs. The following signs may be erected without a sign permit when non-illuminated (except where specified), containing a characteristic of an approved sign, containing no reflective paint, and when complying with the height and size limitations specified.
- (1) Up to four (4) permanent directional signs, not to exceed four (4) square feet each, whose message is exclusively limited to directing and guiding traffic and parking on private property are allowed. Such signs shall be durable and may be in the shape of a square, rectangle, circle, arrow or oval, but may not display a logo. Directional signage does not include arrows or other markings on pavement.
- (2) Yard signs, not to exceed four (4) square feet, may be erected for not more than one (1) week during any consecutive ninety (90) day period.
- (3) Flags and insignia of any government except when displayed in connection with a commercial promotion.
- (4) Non-illuminated signs located on private property that cannot be seen from a public street or right-of-way.
- (5) Legal notices and warnings, regulatory, informational or directional signs erected by any public agency or utility.
- (6) Any sign, unlighted, not exceeding two (2) square feet in area and bearing only property numbers, mail box numbers, and the name and owner or occupant of the premises.
 - (7) Holiday decorations in season whose purpose is not advertising.
- (8) Integral decorative or architectural features of buildings, including signs that denote only the building name, date of erection or street number. Such signs shall be permitted as exemptions when cut into any masonry surface, implanted with a metal plate, and not exceeding four (4) square feet.
- (9) Changeable copy portion of signs for automobile service stations or other establishments engaged in the retail sales of gasoline, provided that the changeable copy area does not exceed eight (8) square feet in area. Any such changeable copy portion shall be affixed to a permitted freestanding identification sign, to a canopy support in the vicinity of the gasoline pumps or flat mounted against the wall of a building.
- (10) Political signs, each not exceeding four (4) square feet, located on private property with the owner's permission.
- (11) One (1) residential on-site real estate sign not to exceed nine (9) square feet or one (1) commercial on-site real estate sign not to exceed fifteen (15) square feet. Neither shall exceed four feet (4') in height.
- (12) One off-site real estate sign when the location of the dwelling is not viewable from the intersection of a public street and the access way to the

parcel, provided that the sign is located within twenty-five feet (25') of the public street intersection, and that written permission of the property owner is secured.

- (13) Cornerstones and historical markers not to include memorial plaques that require DRC review (see Signal Mountain Code, title 20, chapter 6, "Signal Mountain Donation Policy," § 20-605).
 - (14) [Deleted.]
- (15) A-frame or sandwich board sign no greater than eight (8) square feet per face limited to one (1) per business with an erasable surface such as chalkboard or dry-erase board for use to direct attention to daily specials during business hours.
- (16) Vehicle signs, when the vehicle is licensed and/or owned and operated by the owner of the property or by a leaseholder of the property, in residential zones.
- (17) Vehicle signs in commercial zones that meet the following conditions:
 - (a) Vehicle is licensed and/or owned and operated by the owner of the property or by a leaseholder of the property.
 - (b) Vehicle is in operating condition, currently registered and licensed to operate on public streets.
 - (c) Signage is placed upon the vehicle.
 - (d) Vehicle is parked in a designated parking space and is not used as a stationary display sign.

Note: The intent of this exemption is to allow business owners/operators to park company vehicles on their property and/or in close proximity to their businesses, but to prohibit them from using their vehicles as signage. (as added by Ord. #2012-3, Feb. 2012, and amended by Ord. #2013-08, May 2013)

- 14-506. <u>Prohibited signs</u>. A prohibited sign is defined as any sign not specifically identified in these regulations as a permitted sign. The following signs and sign characteristics shall be prohibited:
- (1) Fringe, twirling, or portable display signs, streamers or air or gas filled figures.
 - (2) Promotional beacons, searchlights or laser lights or images.
 - (3) Audible signs.
- (4) Signs in a public right-of-way other than those belonging to a government or public service agency.

¹Ord. #2012-3 referred to chapter "Donation Policy." The correct name of this chapter is "Signal Mountain Donation Policy" and has been corrected.

- (5) Signs mounted on trees, utility poles, water towers or other similar structures, architectural features, traffic signals or traffic control boxes or cell towers.
 - (6) Signs mounted on top of a roof or false roof structure.
- (7) Signs erected upon trailers or portable rigs with intent to promote a business.
 - (8) Signs that depict lewd or sexually explicit material.
- (9) Signs that advertise an activity that is illegal under federal, state or local laws.
- (10) Signs in poor repair, in violation of codes or containing or exhibiting broken panels, visible rust, visible rot, damaged support structures or missing letters.
 - (11) Abandoned signs.
 - (12) Animated signs, flashing signs, and rotating signs.
- (13) Changeable copy signs, manual or electronic, excluding price signs at automobile service stations.
- (14) Signs which contain or are an imitation of an official traffic sign or signal or contain the words "stop," "go," "slow," "caution," "warning," or similar words in such a manner as to resemble official traffic control signs.
 - (15) Graffiti.
- (16) Sign kiosks or signs with three (3) or more faces except for government signs located in parks or at trailheads.
- (17) Signs attached/painted on natural objects such as rocks, boulders, etc.
 - (18) Marquee signs.
 - (19) Billboards.
- (20) Signs erected in such a manner that any portion of the sign or its support is attached to or may possibly interfere with the free use of any fire escape, entrance, exit or standpipe or that will or may obstruct any required stairway, door ventilator or window.
- (21) Signs erected that will or reasonably might interfere with, obstruct, confuse or mislead vehicular traffic.
 - (22) Signs with flashing or alternating lights or changing colors.
- (23) Signs constructed to incorporate wind-blown materials, moving parts or the appearance of motion by use of flashing or reflected light or other devices except for time/temperature, which may be permitted.
 - (24) Light box or cabinet type signs whether lit or unlit.
 - (25) Internally lit channel letters (not to include backlit).
- (26) Signs attached to or painted on a vehicle parked and visible from the public right-of-way unless it is used for transporting people or materials in the normal day-to-day operations of the business.
 - (27) Vehicle signs that do not meet the requirements of "Exempt signs."
 - (28) Pole signs.

- (29) Lighted window signs except as allowed by § 14-409(c)(ii), One (1) lighted, but non-moving, blinking, or flashing "Open" sign of a type not prohibited by this chapter that shall not exceed four (4) square feet and shall be counted as a percentage of the interior sign allowance. (as added by Ord. #2012-3, Feb. 2012, and amended by Ord. #2013-08, May 2013, and Ord. #2013-14, Aug. 2013)
- 14-507. <u>Banners</u>. All banners are temporary, and no banner may exceed twenty-five (25) square feet regardless of use or zoning.
- (1) <u>Temporary commercial banner permit</u>. The building official shall issue temporary banner permits for new or relocating businesses, special business advertising or for special private events as follows:
 - (a) New or relocating business. The building official shall grant one (1) temporary banner permit to a new or relocating business for a period of eight (8) weeks in lieu of a permanent sign. Concurrently, business owners shall apply to the DRC for a permanent sign permit.
 - (b) Business advertising. Businesses located in commercial zones may also apply for a temporary banner permit for advertising purposes restricted to the following:
 - (i) Permits may be granted no more than four (4) times a year.
 - (ii) Temporary banners may be displayed for no more than fourteen (14) consecutive days.
 - (iii) Temporary banners will be removed promptly. If not, the town will remove them for a charge of ten dollars (\$10.00) to be paid by the permittee.
- (2) <u>Temporary special event banner permit</u>. The building official shall grant temporary banner permits to nonprofit, educational, religious or civic organizations for publicizing special events restricted to the following:
 - (a) A contact person responsible for oversight must be named in the permit.
 - (b) Permits may be granted no more than four (4) times a year.
 - (c) Temporary banners may be displayed no more than fourteen (14) consecutive days.
 - (d) Temporary banners will be removed promptly. If not, the town will remove them for a charge of ten dollars (\$10.00) to be paid by the permittee. (as added by Ord. #2012-3, Feb. 2012)
- 14-508. <u>Design principles and guidelines</u>. (1) <u>Location</u>. Signs for individual businesses should be integrated into the face of the building. The size and shape of the signs should be compatible with the overall design of the building. Signs should not obscure architectural details on the building face. Signs should be installed on vertical surfaces and not project higher than the

roofline. Ground mounted signs should be incorporated into the overall landscaping plan and should be located as close as feasible to the ground.

- (2) <u>Size</u>. Signs should maintain a modest scale. Signs need to be large enough to be legible, but oversize signage can create distractions for motorists and otherwise create nuisances for adjacent property owners.
- (3) <u>Consistency</u>. Signs within a commercial development should maintain a high level of visual consistency in size, material and location within the architecture of the building and among other separate signs. Signs should be designed as an architectural element of the building and should reflect or complement the architectural style of the building.
- (4) <u>Design</u>. Simple shapes are preferred for all signage as is high-quality graphic design that is easily legible. Signs can consist of individual three-dimensional letters and numbers. The use of logos or some graphic elements may be permitted.
- (5) <u>Construction</u>. Signs shall be constructed of durable materials such as stone, brick, wood and wood simulating materials. Materials should complement the architectural style of the building and contribute to the overall quality of the development. Reflective materials other than glass should be avoided. In general, the selection of materials should also contribute to the overall character of the neighborhood or town.
- (6) <u>Lighting</u>. Signage lighting should be given adequate attention to detail. Simple, external illumination fixtures should complement both the building and the sign itself. For most light fixtures, the illumination source (bulb) should not be visible. Certain backlit illumination creating a halo effect may be appropriate, as may other new lighting technology or design detail. (as added by Ord. #2012-3, Feb. 2012, and amended by Ord. #2015-08, Oct. 2015)
 - 14-509. <u>Allowable signage</u>. (1) <u>Commercial</u>. (a) Each multi-tenant development may have one (1) primary sign no more than twenty-five (25) square feet per face. The multi-tenant development sign shall be used to identify the development and shall not be an advertising or directory sign.
 - (b) Each business/tenant may have (1) primary exterior sign to identify itself that shall not exceed twenty-five (25) square feet selected from the types of signs described under § 14-510, (Types of signs).
 - (c) Each business/tenant may have interior window signage that shall not exceed fifteen percent (15%) of the uninterrupted aggregate of the glazing on a given wall visible from the street.
 - (i) Required: Lettering detailing address, contact information or hours of operation that shall not exceed two (2) square feet and shall not be counted as a percentage of the interior signage allowance.
 - (ii) Optional: One (1) lighted, but non-moving, blinking or flashing, "Open" sign of a type not prohibited by this chapter

that shall not exceed four (4) square feet and shall be counted as a percentage of the interior signage allowance.

- (d) A secondary sign that shall not exceed fifteen (15) square feet for each multi-tenant development or business/tenant may be considered under the following conditions:
 - (i) Length of street frontage greater than one hundred (100) linear feet.
 - (ii) Location at an intersection of two (2) or more public streets.
 - (iii) Use as a drive-through establishment.
 - (iv) Principal use is small scale and oriented to pedestrians.
 - (v) For replacement of non-conforming signage.
 - (vi) Hardship related to the site including but not limited to topography or sight distance.
- (2) <u>Churches and schools</u>. Signs identifying churches and schools shall not exceed twenty-five (25) square feet per face regardless of street frontage and shall comply with the provisions of these regulations.
- (3) <u>Subdivisions/residential development entry signs and features</u>. Signs and entrance features that identify and mark the location of subdivisions and residential developments (including apartments, condominiums, and townhouses):
 - (a) Shall be located within the area set aside for entrance features the location of which shall be indicated on preliminary and final plats or a development plan approved by the DRC if applicable. Entrance features shall not exceed two hundred (200) square feet in total area whether as single or multiple features.
 - (b) Shall be set back fifteen feet (15') from the rights-of-way of any adjoining arterial or collector streets; one foot (1') from local road rights-of-way and five feet (5') from all property lines. Subdivision entrance features and/or signage shall not be allowed on town rights-of-way or in required setbacks for any building and shall not obstruct sight triangles as required by § 16-104 in the town code.
 - (c) Each roadway providing entry into a subdivision or development is considered one (1) entrance regardless of any natural or artificial divisions such as medians or width between opposing lanes.
 - (d) A sign shall only include the name of the subdivision or development and should be integrated into and complementary of the subdivision or residential entrance feature(s).
 - (e) Signs shall not exceed a total of twenty-five (25) square feet of an entrance feature regardless of street frontage. Graphic emblems, logos or symbols may be incorporated into the design.
 - (f) Entrance features should maintain a modest scale that is in proportion with their surroundings. An entrance feature that exceeds four

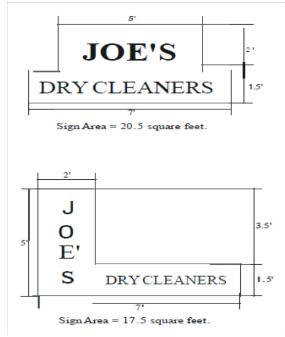
- feet (4') in height shall be considered part of the main entryway structure and subject to the aforementioned two hundred (200) square feet dimensional requirements. No entrance structure supporting an entrance sign shall exceed six feet (6') in height.
- (g) Entrance features should be of high quality design from durable materials such as stone, brick or stucco. Materials should be consistent with building materials used in the development and consistent with the architectural and aesthetic qualities of the town. Plywood or concrete block used as a visible portion of a sign or entrance feature is expressly prohibited.
- (h) Existing landscape and plant materials should be preserved if possible. In new landscaping, the use of native, drought tolerant plants are recommended.
- (i) The design of landscaping and architectural features should respond in scale to the rest of the site to reinforce the character of the development.
- (j) Entrance feature lighting should be directed toward the sign and shielded to only illuminate the sign and avoid glare.
- (4) <u>Development and construction signs</u>. One (1) construction sign is allowed for each active development and construction project. Sign specification for development and construction sites shall be allowed as follows:
 - (a) A sign for a single-family residence shall not exceed six (6) square feet.
 - (b) Signs for projects other than a single-family residence shall not exceed twenty-five (25) square feet.
 - (c) Residential development signs shall be removed within three (3) years or after two-thirds (2/3) of the project's units have been occupied, whichever comes first.
 - (d) Construction signs shall be removed within one (1) month of initial occupancy. (as added by Ord. #2012-3, Feb. 2012, and amended by Ord. #2013-08, May 2013, Ord. #2013-14, Aug. 2013, Ord. #2014-09, Oct. 2014, and Ord. #2015-10, Oct. 2015)
- 14-510. <u>Types of signs</u>. The following details types of signs, their uses and requirements:
- (1) <u>Monument signs</u>. Monument signs are typically used where building setbacks, orientation or design make it difficult to provide other types of signage, such as wall signs, that are plainly visible to people who are trying to identify a use. These often identify multi-tenant developments, churches, schools and subdivisions. These signs should be designed so that the style of the sign and its base are consistent with the architecture of the buildings on the site.
 - (a) Monument signs shall be located within a green or landscaped area with a minimum setback of ten feet (10') from the

property line or sight-triangle requirement, whichever is greater. Adequate landscaping shall be provided to blend the sign into the site.

- (b) The bottom edge of a monument sign shall be in continuous contact with the structural base and a minimum of twelve inches (12") above grade.
- (c) Monument signs may be incorporated into a retaining wall or masonry wall.
 - (d) Monument signs shall be no higher than four feet (4').
- (2) <u>Post and panel signs</u>. Freestanding post and panel signs are primarily used to identify office or retail uses. They are similar to monument signs, except they do not have a base other than support posts. They can have a single or double face. The colors and materials used for the sign shall be compatible with the associated building design.
 - (a) Post and panel signs shall not exceed twenty-five (25) square feet per face.
 - (b) The bottom edge of a post and panel sign shall be a minimum of twelve inches (12") above grade.
 - (c) Post and panel signs shall be set back a minimum of ten feet (10') from the property right-of-way or sight triangle, whichever is greater.
 - (d) Post and panel signs shall be a maximum of four feet (4') in height and shall be landscaped to blend into the site.
- (3) <u>Wall sign</u>. Wall signs include most types of signage that are attached to the face of a building wall. These include channel letters.
 - (a) Signs mounted on buildings shall be integrated with the architecture of the building and shall not project above or beyond the drip line of sloped roof buildings.
 - (b) Wall signs may be placed either directly onto the building surface or other background surface and are generally located either above windows, adjacent to entry doors or on surfaces such as fascia specifically designed for signage.
 - (c) Wall signs shall have a maximum total sign area of twenty-five (25) square feet. Under certain conditions, however, a second sign of up to fifteen (15) square feet may be allowed (see § 14-509(1)(d), (Allowable signage; Commercial, paragraph (d).
- (4) <u>Projecting signs</u>. Projecting signs are attached to a building face and project out perpendicular to the building wall. Projecting signs are effective when oriented to pedestrians on the sidewalk level.
 - (a) Projecting signs shall originate from the main store/building front and be no larger than twelve (12) square feet.
 - (b) No projecting sign shall extend more than four feet (4') beyond a building roofline.
 - (c) A minimum ground clearance of eight feet (8') shall be required for any sign projecting over a pedestrian walkway.

- (5) Window signs. Window signs should be scaled to pedestrians and oriented to window shoppers on the sidewalk, as opposed to vehicles passing by. Window signs should be limited to small graphics and text that serve to frame a window or provide information. Window signs shall occupy no more than fifteen percent (15%) of the uninterrupted aggregate of the glazing on a given wall visible from the street and shall be applied so that they do not obscure the visibility into a shop for the passerby..
- (6) <u>Building directory signs</u>. Directory signs are used for multi-tenant buildings or commerce centers to provide a directory of tenant locations within the building or development. Most directory signs are small in scale and oriented to pedestrians.
 - (a) Directory signs may be fixed on an exterior wall of the building. One (1) directory sign shall be permitted per multi-tenant building.
 - (b) Wall mounted directory signs shall be no larger than twelve (12) square feet in area. Individual letters may not exceed six inches (6") in height.
- (7) <u>Canopy or awning signs</u>. Canopy and awning signs shall not cover more than twenty-five percent (25%) of the canopy or awning or exceed twenty-five (25) square feet in size, whichever is smaller.
- (8) <u>Hanging and suspended signs</u>. Hanging signs or suspended signs are used to help define entries and identify business names to pedestrians. They are small and can hang over a building entry.
 - (a) A minimum ground clearance of eight feet (8') shall be required for any sign hanging or suspended over a pedestrian walkway.
 - (b) Hanging and suspended signs shall be no larger than twelve (12) square feet.
- (9) <u>Menu board signs</u>. Menu board signs are appropriate for drive-through restaurants only and are subject to the following:
 - (a) Proposed location of menu boards shall be approved by the DRC.
 - (b) The maximum height shall be six feet (6').
 - (c) Menu board signs shall not exceed twenty-five (25) square feet.
 - (d) Dimensions do not count toward overall sign square footage.
 - (e) Speakers shall meet the requirements of zoning and town codes.
 - (f) Menu boards shall only be lit during business hours.
- (10) <u>All other sign types</u>. Freestanding signs and other types of signs not addresse d as a specific sign type shall not exceed twenty-five (25) square feet per face. (as added by Ord. #2012-3, Feb. 2012, and amended by Ord. #2013-08, May 2013)

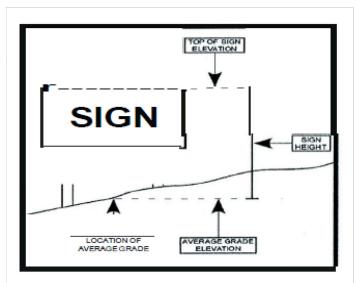
- 14-511. <u>Determining sign area</u>. The following criteria shall be used to determine sign area and placement under these regulations:
- (1) <u>Determining sign area</u>. For single-faced signs, area shall be that within the outermost perimeter of the sign. A single-faced sign is a sign constructed so its message is displayed in a single plane and is viewable from only one side of the plane.
- (2) For double-faced signs, area shall be that within the outermost perimeter of one (1) face of the sign. A double-faced sign is a sign constructed to display message(s) on the outside surfaces of two (2) identical and/or opposite parallel planes, provided the planes are not more than two feet (2') apart.
- (3) Sign area is calculated by determining the number of square feet of the smallest square or rectangle(s) within which the sign face can be enclosed.
- (4) If a sign is attached to a wall, only that portion of the wall onto which the sign face or letters are placed shall be calculated in sign area. When separate letters or graphics are attached to a wall, then the sign area shall be determined by drawing a square or rectangle around all type and markings associated with the sign.
- (5) The total sign area is the sum of all individual sign areas, including the area of a rectangle enclosing any message, logo, symbol, name, photography or display face is the sign surface area.
- (6) Framework that is clearly incidental to the sign itself shall not be computed in the sign area.
- (7) See the following diagrams describing methodology for calculating sign area.



(as added by Ord. #2012-3, Feb. 2012)

14-512. <u>Sign height and clearance</u>. (1) <u>Height</u>. The height of a free-standing sign shall be measured from the ground adjacent to the sign to the top of the sign and support structure. If the ground under the sign slopes, the

height shall from the under the the following



be measured average grade sign itself. See diagram:

- (2) <u>Clearance</u>. Where permitted, awnings, canopies, projecting, and suspended signs shall conform to the following requirements:
 - (a) Vertical. The minimum clearance between the lowest point of a sign and the grade immediately below shall be eight feet (8') over private sidewalk areas.
 - (b) Horizontal. The minimum horizontal clearance between a sign and the public right-of-way shall be two feet (2'); the maximum projection over a private sidewalk shall be two-thirds (2/3) the width of the sidewalk or six feet (6'), whichever is less. (as added by Ord. #2012-3, Feb. 2012)
- 14-513. <u>Sign illumination</u>. The following lighting standards apply to all signage illumination except where prohibited by state or federal requirements. Illumination where permitted shall be subject to the following limitations:
 - (1) No signs shall be internally illuminated.

- (2) Signs where illumination creates a backlit, halo-like effect around the sign or sign elements may be allowed.
- (3) External light sources shall be fully shielded so that the light intensity will not create glare and will prevent direct illumination of any object other than the sign.
- (4) Menu board signs shall only be lit during business hours. (as added by Ord. #2012-3, Feb. 2012)
- 14-514. <u>Non-conforming signs</u>. A non-conforming sign is a sign that was lawfully installed prior to the effective date of these regulations, or a subsequent amendment thereto, that as a result no longer conforms. All signs deemed non-conforming shall be made to comply with the requirements of these regulations if one (1) of the following occurs:
- (1) Any modification of sign appearance, other than normal maintenance necessary to retain the original appearance of the sign.
- (2) Removal for whatever reason of a non-conforming sign. A non-conforming sign shall not be re-erected.
- (3) Change of use and/or name of a business. However, when the ownership of a business changes, but the name and use of the business remain the same, a conforming sign in good repair shall remain. A conforming sign in good repair may also be erected upon the relocation of a business.
- (4) Destruction or deterioration of the sign to an extent that the current cost of repair exceeds fifty percent (50%) of the current cost of constructing a new sign that duplicates the old sign. (as added by Ord. #2012-3, Feb. 2012)
- 14-515. <u>Appeals</u>. An applicant whose proposed signage is conditionally approved or disapproved by the design review commission may appeal the commission's action to the town council. Appeals to the council shall be filed with the town manager ten (10) days prior to the next regular meeting of the council and not more than sixty (60) days after the date of the commission's action.

The members of the commission will be notified of the request for appeal and will be given the opportunity to address the council. The council, after hearing all parties who desire to be heard, shall approve, approve with conditions or not approve the application by a written statement setting forth the reasons for its action.

If the council approves or conditionally approves the application, the building official may issue the building permit forthwith, provided that the applicant has complied with the terms of approval or conditional approval as well as with other provisions of this section, and with all other codes, ordinances, regulations and procedures regarding building permits. (as added by Ord. #2012-3, Feb. 2012)

- 14-516. <u>Variances</u>. (1) <u>Permanent</u>. (a) The town council is authorized to permit variances in the administration of this chapter when good taste and unusual circumstances, and/or practicality justify the granting of a variance. Part of the intent of these regulations is to promote creativity in signs.
- (b) To apply for a variance, a person must file a written request with the council setting forth what variance is requested and the reasons for the request. The town council shall administer all applications and all requests for new sign variances of a permanent nature and may hold a hearing on such petition if it desires to do so.
- (c) The council will agree to act to approve, deny, defer or conditionally approve the request for variance within sixty (60) days.
- (2) <u>Temporary</u>. The town manager is authorized to permit temporary use variances for non-profit organizations only in the administration of these regulations and may hold a public hearing on such if he/she so desires. The town manager is authorized to permit temporary use variances of not more than fourteen (14) consecutive days and/or thirty (30) days during any twelve (12) month period. The maximum number of temporary locations shall be eight (8) at any time. (as added by Ord. #2012-3, Feb. 2012)
- 14-517. <u>Sign maintenance</u>. All signs shall be continuously maintained in conformance with the standards of appearance extant at the time of original erection. Deteriorated or damaged paint and construction materials shall be immediately renewed. (as added by Ord. #2012-3, Feb. 2012)
- 14-518. <u>Enforcement</u>. The building official shall have the authority to order the removal or modification of any new sign that does not meet these sign regulations according to the following procedures:
- (1) The owner of the sign, the occupant of the premises on which the sign is located, and the person or firm maintaining the same shall, upon written notice by registered or certified mail from the building official, remove or modify the sign or structure within thirty (30) days in a manner approved by the building official.
- (2) If the order is not complied with within thirty (30) days, the building official or his designated agent shall issue a second written notice in person or by registered or certified mail indicating that if the appropriate action does not take place within fifteen (15) days, the town will remove the sign at the sign owner's expense.

If the sign is not removed or modified within the fifteen (15) days granted by the second notice, the building official shall order the removal of the sign by the town. The cost of this work shall be charged to the property owner and a lien on the property in that amount shall exist until the town is reimbursed. (as added by Ord. #2012-3, Feb. 2012)

- 14-519. <u>Abandoned signs</u>. The town council may, at its discretion, order the removal of an abandoned sign if thirty (30) days have elapsed since the owner of the property on which the sign is located was notified in writing. (as added by Ord. #2012-3, Feb. 2012)
- 14-520. <u>Penalties</u>. Any person, firm or corporation violating any of the provisions of these regulations shall be deemed guilty of a misdemeanor and upon conviction thereof, shall be fined fifty dollars (\$50.00). Each day's continuance of a violation shall be considered a separate offense. The owner of any sign, building or premises or part thereof, where anything in violation of these regulations shall be placed or shall exist, and any person, who may have knowingly assisted in the commission of any such violation, shall be guilty of a separate offense. (as added by Ord. #2012-3, Feb. 2012)

TITLE 15

MOTOR VEHICLES, TRAFFIC AND PARKING¹

CHAPTER

- 1. GENERAL.
- 2. EMERGENCY VEHICLES.
- 3. MOTORCYCLES, MOTOR DRIVEN CYCLES, AND BICYCLES.
- 4. SPEED LIMITS.
- 5. TURNING MOVEMENTS.
- 6. STOPPING AND YIELDING.
- 7. PARKING.
- 8. ENFORCEMENT.
- 9. ABANDONED VEHICLES.
- 10. VEHICLE ACCESS TO LOTS.

CHAPTER 1

GENERAL

SECTION

- 15-101. Motor vehicle requirements.
- 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.
- 15-108. Miscellaneous traffic-control signs, etc.
- 15-109. General requirements for traffic-control signs, etc.
- 15-110. Unauthorized traffic-control signs, etc.
- 15-111. Presumption with respect to traffic-control signs, etc.
- 15-112. School safety patrols.
- 15-113. Driving through funerals or other processions.
- 15-114. Damaging pavements.
- 15-115. Clinging to vehicles in motion.
- 15-116. Riding on outside of vehicles.
- 15-117. Backing vehicles.
- 15-118. Projections from rear of vehicles.
- 15-119. Causing unnecessary noise.

¹For provisions relating to obstructions and/or excavations in public streets, alleys, sidewalks, and rights of way, see title 16 in this code.

- 15-120. Vehicles and operators to be licensed.
- 15-121. Passing.
- 15-122. Restrictions on operation of trucks with three or more axles.
- 15-101. <u>Motor vehicle requirements</u>. It shall be unlawful for any person to operate any motor vehicle within the corporate limits unless such vehicle is equipped with properly operating muffler, lights, brakes, horn, and such other equipment as is prescribed and required by <u>Tennessee Code Annotated</u>, title 55, chapter 9. (1985 Code, § 9-101)
- 15-102. <u>Driving on streets closed for repairs, etc.</u> 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. (1985 Code, § 9-102)
- 15-103. Reckless driving. 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. (1985 Code, § 9-103)
- 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. (1985 Code, § 9-105)
- 15-105. <u>Unlaned streets</u>. (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.
- (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. (1985 Code, § 9-106)
- 15-106. <u>Laned streets</u>. 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. (1985 Code, § 9-107)

- 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. (1985 Code, § 9-108)
- 15-108. <u>Miscellaneous traffic-control signs</u>, 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. (1985 Code, § 9-109)

- 15-109. General requirements for traffic-control signs, etc. All traffic-control signs, signals, markings, and devices shall conform to the latest revision of the Manual on Uniform Traffic Control Devices for Streets and Highways,² published by the U. S. Department of Transportation, Federal Highway Administration, and shall, so far as practicable, be uniform as to type and location throughout the town. This section shall not be construed as being mandatory but is merely directive. (1985 Code, § 9-110)
- 15-110. <u>Unauthorized traffic-control signs, etc.</u> 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 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. (1985 Code, § 9-111)

¹Also see sections 15-405--15-409 in this code.

²This manual may be obtained from the Superintendent of Documents, U. S. Government Printing Office, Washington, D.C. 20402.

- 15-111. <u>Presumption with respect to traffic-control signs, etc.</u> 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 authority. (1985 Code, § 9-112)
- 15-112. 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. (1985 Code, § 9-113)
- 15-113. <u>Driving through funerals or other processions</u>. 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. (1985 Code, § 9-114)
- 15-114. <u>Damaging pavements</u>. No person shall operate or cause to be operated upon any street of the town any vehicle, motor propelled or otherwise, which by reason of its weight or the character of its wheels, tires, or track is likely to damage the surface or foundation of the street. (1985 Code, § 9-115)
- 15-115. 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. (1985 Code, § 9-116)
- 15-116. 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. (1985 Code, § 9-117)
- 15-117. <u>Backing vehicles</u>. 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. (1985 Code, § 9-118)
- 15-118. <u>Projections from the rear of vehicles</u>. 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 (1/2) hour after sunset and one-half (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 (1/2) feet from the rear of such vehicle. (1985 Code, § 9-119)

- 15-119. <u>Causing unnecessary noise</u>. 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. (1985 Code, § 9-120)
- 15-120. <u>Vehicles and operators to be licensed</u>. 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." (1985 Code, § 9-121)
- 15-121. <u>Passing</u>. 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. (1985 Code, § 9-122)

15-122. Restrictions on operation of trucks with three or more axles. (1) The town manager is hereby authorized to direct the posting of official traffic control signs on any street, alley, or other public way or portion thereof to prohibit through traffic of trucks with three (3) or more axles to restrict such traffic on any residential street; upon any street which has an inadequate base

or foundation to withstand truck traffic; or upon any street which is posted to prohibit truck traffic by the Tennessee Department of Transportation within the town. Nothing herein shall be deemed to prohibit the operation of trucks with three (3) or more axles on such streets for the sole purpose of making a pick-up or delivery which would entail traveling over the restricted portion of the street for commercial or residential deliveries within the town.

(2) No person shall stand or park a truck or other motor vehicle having three (3) or more axles in any residential district within the town on either a street right-of-way or on private property except during the loading or unloading of passengers or material. (as added by Ord. #2007-13, Sept. 2007)

EMERGENCY VEHICLES

- 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. <u>Authorized emergency vehicles defined</u>. Authorized emergency vehicles shall be fire department vehicles, police vehicles, and such ambulances and other emergency vehicles as are designated by the commissioner of fire and police. (1985 Code, § 9-201)
- 15-202. Operation of authorized emergency vehicles.¹ (1) 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.
- (2) 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.
- (3) 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.
- (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. (1985 Code, § 9-202)

¹See section 15-501 in this code for provisions governing the operation of other vehicles upon the approach of emergency vehicles.

- 15-203. <u>Following emergency vehicles</u>. No driver of any vehicle shall follow any authorized emergency vehicle apparently traveling 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. (1985 Code, § 9-203)
- 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. (1985 Code, § 9-204)

MOTORCYCLES, MOTOR DRIVEN CYCLES, AND BICYCLES

- 15-301. Required equipment.
- 15-302. Operational rules.
- 15-303. Off street use restricted.
- 15-304. Holding onto other vehicles prohibited.
- 15-305. Special speed limits.
- 15-301. Required equipment. It shall be unlawful for any person to operate a motorcycle or motor driven cycle within the corporate limits unless such vehicle is equipped with properly operating muffler, lights, brakes, horn and such other equipment as is prescribed and required by Tennessee Code Annotated, title 55, chapter 9, which provisions are adopted by reference as fully as if set out in full herein. (1985 Code, § 9-301)
- 15-302. Operational rules. (1) Every person riding or operating a bicycle, motorcycle, or motor driven cycle 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, or motor driven cycles.
- (2) No person operating or riding a bicycle, motorcycle, or motor driven cycle 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.
- (3) No bicycle, motorcycle, or motor driven cycle shall be used to carry more persons at one time than the number for which it is designed and equipped.
- (4) No person operating a bicycle, motorcycle, or motor driven cycle shall carry any package, bundle, or article which prevents the rider from keeping both hands upon the handlebar.
- (5) No person under the age of sixteen (16) years shall operate any motorcycle or motor driven cycle while any other person is a passenger upon said motor vehicle.
- (6) Each driver of a motorcycle or motor driven cycle 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.
- (7) Every motorcycle or motor driven cycle 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 or motor driven cycle shall be required to wear safety goggles, faceshield or glasses,

- containing impact resistant lenses for the purpose of preventing any flying object from striking the operator or any passenger in the eyes.
- (8) 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 or motor driven cycle in violation of this section. (1985 Code, § 9-302)
- 15-303. Off street use restricted. No motorcycle, motor scooter or any other motor driven cycle or bicycle shall be ridden upon any sidewalk of the Town of Signal Mountain nor shall any such vehicle be ridden or any vacant lot, yards or privately-owned property without the written consent of the owner. (1985 Code, § 9-303)
- 15-304. <u>Holding on other vehicles prohibited</u>. No rider of a motorcycle, motor scooter or any other motor driven cycle or bicycle shall hold onto any moving vehicle for the purpose of using the moving vehicle as a means of propulsion. (1985 Code, § 9-304)
- 15-305. Special speed limits. No person shall operate any motorcycle or any motor scooter at a speed greater than the speed limit legally posted; provided, however, in no event nor at any time may an operator under the age of sixteen (16) years operate a motorcycle or motor scooter at a speed greater than twenty-five (25) miles per hour. (1985 Code, § 9-305)

SPEED LIMITS¹

- 15-401. In general.
- 15-402. At intersections.
- 15-403. In school zones.
- 15-404. In congested areas.
- 15-401. <u>In general</u>. It shall be unlawful for any person to operate or drive a motor vehicle upon any highway or street within the town at a rate of speed in excess of twenty-five (25) miles per hour, except in those locations where official signs have been posted by the town designating other speed limits which shall apply as follows:
- (1) US 127 / SR-8 throughout the town shall have a posted speed limit of thirty-five (35) miles per hour.
- (2) The entire length of Timberlinks Drive, Shoal Creek Road, Shackleford Ridge Road, and the portion of James Boulevard (between and including the 800 and 1700 blocks), shall have a speed limit of thirty (30) miles per hour.
- (3) All school zones within the town shall have a posted speed limit of fifteen (15) miles per hour and shall be in accordance with § 15-403 of this chapter. (1985 Code, § 9-401, as replaced by Ord. #2005-1, Feb. 2005, amended by Ord. #2007-9, May 2007, and replaced by Ord. #2018-10, Sept. 2018 *Ch19 8-26-19*)
- 15-402. 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. (1985 Code, § 9-402)
- 15-403. <u>In school zones</u>. Generally, pursuant to <u>Tennessee Code Annotated</u>, section 55-8-152, the town shall have the authority to enact special speed limits 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.

¹For the special speed limit governing motorcycles and other motor driven cycles, see section 15-305 of this code.

In school zones where the town council 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. (1985 Code, § 9-403)

15-404. <u>In congested areas</u>. It shall be unlawful for any person to operate or drive a motor vehicle through any congested area at a rate of speed in excess of any posted speed limit when such speed limit has been posted by authority of the town. (1985 Code, § 9-404)

TURNING MOVEMENTS

- 15-501. Generally.
- 15-502. Right turns.
- 15-503. Left turns on two-way roadways.
- 15-504. Left turns on other than two-way roadways.
- 15-505. U-turns.
- 15-501. 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. (1985 Code, § 9-501)
- 15-502. <u>Right turns</u>. 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. (1985 Code, § 9-502)
- 15-503. <u>Left turns on two-way roadways</u>. 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. (1985 Code, § 9-503)
- 15-504. 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. (1985 Code, § 9-504)
 - 15-505. U-turns. U-turns are prohibited. (1985 Code, § 9-505)

STOPPING AND YIELDING

- 15-601. Upon approach of authorized emergency vehicles.
- 15-602. When emerging from alleys, etc.
- 15-603. To prevent obstructing an intersection.
- 15-604. At "stop" signs.
- 15-605. At "yield" signs.
- 15-606. At traffic-control signals generally.
- 15-607. At flashing traffic-control signals.
- 15-609. At pedestrian-control signals.
- 15-609. Stops to be signaled.
- 15-601. <u>Upon approach of authorized emergency vehicles</u>. 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, or of a police vehicle properly and lawfully make use of an audible signal only, 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. (1985 Code, § 9-601)
- 15-602. 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. (1985 Code, § 9-602)
- 15-603. 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. (1985 Code, § 9-603)

¹See this title, chapter 2, for provisions governing the operation of emergency vehicles.

- 15-604. 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. (1985 Code, § 9-604)
- 15-605. 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. (1985 Code, § 9-605)
- 15-606. <u>At traffic-control signals generally</u>. 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) <u>Green alone, or "Go"</u>:

- (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.
- (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. (1985 Code, § 9-606)
- 15-607. <u>At flashing traffic-control signals</u>. 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:
- (1) <u>Flashing red (stop signal)</u>. 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.
- (2) <u>Flashing yellow (caution signal)</u>. When a yellow lens is illuminated with intermittent flashes, drivers of vehicles may proceed through the intersection or past such signal only with caution. (1985 Code, § 9-607)
- 15-608. 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) <u>Walk</u>. 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) <u>Wait or Don't Walk</u>. 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. (1985 Code, § 9-608)
- 15-609. <u>Stops to be signaled</u>. 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, except in an emergency. (1985 Code, § 9-609)

PARKING

- 15-701. Obstructing traffic prohibited.
- 15-702. Position of parking generally.
- 15-703. Angle parking.
- 15-704. Parking on one-way streets.
- 15-705. Overnight parking within a business district and on other public streets and places.
- 15-706. Prohibited purposes for parking.
- 15-707. Occupancy of more than one parking space.
- 15-708. Prohibited parking locations generally.
- 15-709. Loading and unloading zones.
- 15-710. Presumption with respect to illegal parking.
- 15-711. Parking of recreational vehicles.
- 15-701. Obstructing traffic prohibited. No person shall park a vehicle in such a manner as to block, hinder or retard the orderly movement of traffic. (1985 Code, § 9-701)
- 15-702. <u>Position of parking generally</u>. Except as otherwise expressly provided, every vehicle parked upon a street within the town shall be so parked that its right wheels are parallel to and within eighteen (18) inches of the right edge or curb of the street. (1985 Code, § 9-702)
- 15-703. 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. (1985 Code, § 9-703)
- 15-704. <u>Parking on one-way streets</u>. On one-way streets where the town has not placed signs prohibiting such parking, 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. (1985 Code, § 9-704)
- 15-705. Overnight parking within a business district and on other public streets and places. Notwithstanding anything else in this chapter to the contrary, no person shall park or leave a vehicle parked on any public street or alley within a business district 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. (1985 Code, § 9-705)

- 15-706. <u>Prohibited purposes for parking</u>. No person shall wash, grease, display for sale or work on any vehicle, except to make repairs necessitated by an emergency, while the vehicle is parked on a public street. (1985 Code, § 9-706)
- 15-707. Occupancy of more than one parking space. No person shall park a vehicle in any designated space so that any part of the vehicle occupies more than one (1) such space or protrudes beyond the official marking on the street or curb designated the space unless the vehicle is too large to be parked within a single, designated space. (1985 Code, § 9-707)
- 15-708. <u>Prohibited parking locations generally</u>. No person shall park a vehicle in violation of any sign placed or erected by the town, nor at any of the following locations:
 - (1) On a sidewalk.
 - (2) In front of a public or private driveway.
 - (3) Within an intersection or within fifteen (15) feet thereof.
 - (4) Within fifteen (15) feet of a fire hydrant.
 - (5) Within a pedestrian crosswalk.
 - (6) Within fifty (50) feet of a railroad crossing.
- (7) Within twenty (20) feet 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 (75) feet of the entrance.
- (8) Alongside or opposite any street excavation or obstruction when other traffic would be obstructed.
- (9) On the roadway side of any vehicle stopped or parked at the edge or curb of a street.
 - (10) Upon any bridge.
 - (11) Alongside any curb painted yellow or red by the town.
- (12) No person shall park a school bus, construction truck, dump truck, coal truck, any motor vehicle with a Federal gross vehicle weight rating of ten thousand (10,000) pounds, or more (as determined by the manufacturer), large van, or commercially-marked (other than the vehicle manufacturer and dealer) van or pick-up truck in any designated residentially zoned area within the Town of Signal Mountain longer than is needed on a service call to the adjacent property, excepting a property resident who is routinely visiting his home for a short period of time during the day, provided that (a) the commercially-marked (business marking other than the vehicle manufacturer and dealer) pickup truck or van may be parked in a garage, behind a fence, or otherwise out of sight from a public road, and/or (b) any of the above mentioned vehicles may be parked in a residential zoned area for up to seven days each six months for purposes other

than service calls. (1985 Code, § 9-708; as amended by Ord. #93-17, § 1, Dec. 1993; and further amended by Ord. #95-10, § 1, Nov. 1995)¹

- 15-709. <u>Loading and unloading zones</u>. Between the hours of 7:00 A.M and 7:00 P.M., 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. (1985 Code, § 9-709)
- 15-710. <u>Presumption with respect to illegal parking</u>. When any unoccupied vehicle is found parked in violation of any provision of this chapter, there shall be prima facie presumption that the registered owner of the vehicle is responsible for the illegal parking. (1985 Code, § 9-710)
- 15-711. Parking of recreational vehicles. (1) On town streets. All motorized and non-motorized recreational vehicles and equipment, such as, but not limited to, motor homes, truck campers, travel trailers, tent trailer, camping trailers, motorized dwellings, semi-trailers, horse trailers, off-highway motor vehicles, all-terrain vehicles, tractors, boat trailers, or any other major recreational equipment shall not be parked on any public street, public right-of-way, public road shoulder, or private driveway in the town for a period of time longer than twenty-four (24) hours consecutively. Reasonable variances may be approved by the police chief for unusual temporary circumstances.
- (2) On private property. When on private or residential property, such vehicles and equipment shall be parked only in the side or back yards unless terrain makes this impossible as determined by the town manager, appealable to the town council. Side yards are defined as the portions of the yard behind the forwardmost (to the street) portion of the residential building structure. (as added by ord. No. 91-8)

¹Ord. #95-10, in § 1 states "That Section Twelve (12) of Chapter Seven (7), Title Fifteen (15) of the Signal Mountain Municipal Code be amended so as to read as follows:" However, section 15-712 does not exist in the municipal code and it is clearly the intent of this ordinance to amend this subsection 15-708(12).

ENFORCEMENT

SECTION

- 15-801. Impoundment of vehicles.
- 15-802. Issuance of traffic citations.
- 15-803. Citations for illegal parking.
- 15-804. Failure to obey citation.
- 15-805. Minimum fines.

15-801. <u>Impoundment of vehicles</u>. Members of the police department are hereby authorized, when reasonably necessary to prevent obstruction of traffic, to remove from the streets and impound any vehicle whose operator is arrested or any vehicle which is illegally parked, abandoned or otherwise parked so as to constitute an obstruction or hazard to normal traffic. Any vehicle left parked on any street or alley for more than seventy-two (72) consecutive hours without permission from the chief of police shall be presumed to have been abandoned if the owner cannot be located after a reasonable investigation. An impounded vehicle shall be stored until the owner claims it, gives satisfactory evidence of ownership and pays all applicable fines and costs. The fee for impounding a vehicle shall be five dollars (\$5.00) and a storage cost of one dollar (\$1.00) per day shall also be charged. The fee for towing, impounding and storage is the responsibility of the owner of the impounded vehicle. (1985 Code, § 9-801)

15-802. <u>Issuance of traffic citations</u>. When a police officer halts a traffic violator other than for the purpose of giving a warning and does not take the person into custody under arrest, he shall take the name, address and operator's license number of the 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 the person from custody. (1985 Code, § 9-802)

15-803. Citations for illegal parking. Whenever any motor vehicle without a driver is found parked or stopped in violation of any of the restrictions imposed by this chapter the police officer finding the 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 a vehicle a citation for the driver or owner to answer for the violation within ten (10) days during the hours and at a place specified in the citation. (1985 Code, § 9-804)

- 15-804. <u>Failure to obey citation</u>. It shall be unlawful for any person to violate his written promise to appear in court after giving his 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. (1985 Code, § 9-805)
- 15-805. <u>Minimum fines</u>. All fines and penalties imposed by the town court shall be not less than the current amount on the schedule for each traffic violation as established by the town council. (1985 Code, § 9-806)

ABANDONED VEHICLES

- 15-901. Definitions.
- 15-902. Abandoned vehicles prohibited.
- 15-903. Vehicles to be removed.
- 15-904. Disposition of property.
- 15-905. Proceeds from sale.
- 15-906. Violation.
- 15-901. <u>Definitions</u>. The following definitions shall apply in the interpretation and enforcement of this chapter:
- (1) "Person" shall mean any person, firm, partnership, association, corporation, company, or organization of any kind.
- (2) "Motor vehicle" shall mean every device in, upon or by which any person or property is or may be transported or drawn upon a street or highway, excepting devices used exclusively upon stationary rails or tracks.
- (3) "Street or highway" shall mean the entire width between the boundary lines of every public right of way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel.
- (4) "Property" shall mean any real property within the town which is not a street or highway or public right-of-way.
- (5) "Inoperable motor vehicle" shall mean any motor vehicle, at the time a summons is issued for violation of this article, that:
 - (a) Has major or essential mechanical or auto body parts missing, or
 - (b) Is wrecked, junked or partially disassembled, or
 - (c) Is burned throughout, or
 - (d) Cannot be started and driven legally upon the public streets, (because of a broken down engine, transmission, brakes, lights or other essential car parts in a non-working condition), or does not have a current up-to-date license plate displayed upon the vehicle, or
 - (e) Meets any one or more of the following:
 - (i) Has one or more tires not inflated, or
 - (ii) Has more than one broken window, or
 - (iii) Is economically impractical to restore to operating condition, or
 - (iv) Has any visibly rusted areas, or
 - (v) Has not been moved within one month. (Ord. #87-5, May 1987, as amended by Ord. #2000-1, Jan. 2000)

- 15-902. <u>Abandoned vehicles prohibited</u>. (1) No person shall abandon any vehicle within the town, and no person shall leave any vehicle at any place within the town, for such time and under such circumstances as to cause such vehicle reasonably to appear to have been abandoned.
- (2) No person shall leave any partially dismantled, non-operating, wrecked, or junked vehicle on any street, alley or highway within the town, or on any public right of way.
- (3) No person in charge of control of any property within the town, whether as owner, tenant, occupant, lessee, or otherwise, shall allow any partially or wholly dismantled, non-operating, wrecked, junked, or discarded vehicle to remain on such property longer than 72 hours; except that this chapter shall not apply with regard to a vehicle in an enclosed building; a vehicle on the premises of a business enterprise operated in a lawful place and manner when necessary to the operation of such business enterprise; or a vehicle in an appropriate storage place or depository maintained in a lawful place and manner in the town or other governmental authority. (Ord. # 87-5, May 1987)
- 15-903. <u>Vehicles to be removed</u>. The public safety director is hereby authorized and empowered to give notice to the owner or person in possession or control of any premises in the Town of Signal Mountain, Tennessee, on which there is located an inoperable motor vehicle or non-motorized vehicle junk in violation of this chapter, which said notice shall direct said person to appear before the Municipal Court of the Town of Signal Mountain, Tennessee, at a time and place to be fixed in said notice, and then and there show cause why the said inoperable motor vehicle or non-motorized vehicle junk should not be declared a nuisance, and an order issued requiring the same to be removed and impounded.

Said notice shall be in substantially the following form:

NOTICE

To the owner or person in possession or control of the following described property located in the Town of Signal Mountain, Tennessee:

Names and Addresses

You are hereby notified that there exists on the above-mentioned property an inoperable motor vehicle or non-motorized vehicle junk

in violation of Chapter 9 of the Town of Signal Mountain, Tennessee, Code of Ordinances.

You are further notified that a hearing will be conducted by the municipal judge of the Municipal Court of the Town of Signal Mountain, Tennessee, at the courtroom for said court in the Town of Signal Mountain, Tennessee, at ____o'clock, ___M., on the ____ day of ____, ___, at which time and place you are directed to appear and show cause, if any you have, why the said automobile or vehicle should not be declared a nuisance and an order issued requiring same to be removed and impounded.

The notice provided for in the foregoing paragraph shall be served upon the owner or person in possession or control of said property, if he is known and can be found within the Town of Signal Mountain, Tennessee, but if such person is not known or cannot be found within the Town of Signal Mountain, Tennessee, service of said notice shall be effected by posting one copy thereof on the premises where the said inoperable motor vehicle or non-motorized vehicle junk is found. The notice herein provided for shall be served or posted, as the case may be, at least five (5) days before the date fixed for hearing before the municipal judge.

At the time and place appointed in the notice provided for in the paragraph herein, the judge shall conduct a hearing for purposes of determining whether the said vehicles complained of exists in violation of this chapter, and if he finds that same constitutes a violation of this chapter, he shall so declare the same and make an order requiring the removal of said inoperable motor vehicle or non-motorized vehicle junk within five (5) days from the making of said order. Court costs shall be assessed by the court in any case in which a violation exists at the time the notice was given. The court may dismiss the case on payment of court costs if a finding is made that a violation of the chapter, existing at the time of the notice, has since been remedied by the owner or person in possession or control of the inoperable motor vehicle or non-motorized vehicle junk.

The owner or person having possession or control of any premises on which there exists an inoperable motor vehicle or non-motorized vehicle junk in violation of this chapter, who having been personally served with the notice provided for in the paragraph hereof, who shall fail to comply with the order of the municipal judge requiring the removal of said inoperable motor vehicle or non-motorized vehicle junk, shall be guilty of violation of this chapter, and on conviction shall be punished as provided herein. (Ord. #87-5, May 1987, as amended by Ord. #2000-1, Jan. 2000)

15-904. <u>Disposition of property</u>. In the event the court declares such auto, vehicle or vehicle junk to be a nuisance and that it be removed within five (5) days after the date of this order, the public safety director shall remove said property from the place it is found as ordered by the court. Any property so taken up and removed shall be stored in a suitable place provided by the town.

A permanent record giving the date of the taking of the property, the place where found and taken, and a description of the property shall be kept by the public safety director.

All unclaimed personal property which comes into the possession of the public safety director shall, if it remains unclaimed for a period of sixty (60) days thereafter, be delivered to the town manager to be forfeited and disposed of by him. The town manager, before selling same, shall make every reasonable effort to give actual notice to the owner thereof if such has not been done by the department that came into possession of same.

At intervals during each year, the town manager shall hold a public sale of unclaimed personal property delivered to him. Notice of sale, giving the time and place, shall be by advertisement at least once in a daily newspaper published in the town at least ten (10) days prior to the time set for the sale. Such sale shall be made at public auction to the highest bidder for cash, and shall be conducted by the town manager or some person designated by him. The town manager shall keep a list of all articles sold and the price for which each article was sold.

The owner of any property taken up and stored as herein provided may redeem the same at any time prior to its sale by paying the reasonable expense of taking the property in charge, its maintenance and storage and the cost of any publication made regarding said property. (Ord. #87-5, May 1987, as amended by Ord. #2000-1, Jan. 2000)

- 15-905. Proceeds from sale. (1) The money received from the sale of unclaimed personal property, as provided in this chapter, shall be paid by the town manager into the town treasury, and he shall certify the expense incurred in making the sale or otherwise disposing of such personal property, including the cost and expense of storage during the period such personal property was in possession of the town.
- (2) If the owner of any article of personal property sold shall, within a period of sixty (60) days after the sale, present satisfactory proof to the town that he was the owner of any article sold, he shall be entitled to the proceeds of the sale thereof, less the expenses of the sale.
- (3) The money arising from sales of unclaimed personal property which had been in the possession of the public safety director shall be kept in a separate account by the town manager and, at the end of the fiscal year, the town manager shall pay the net amount of these proceeds into the general fund of the town. (Ord. #87-5, May 1987, as amended by Ord. #2000-1, Jan. 2000)
- 15-906. <u>Violation</u>. Any person violating any of the provision of this chapter shall be punished by a fine of not less than \$10.00 nor more than \$50.00. Each day such violation is committed, or permitted to continue, shall constitute a separate offense and shall be punishable as such. (Ord. # 87-5, May 1987)

VEHICLE ACCESS TO LOTS

SECTION

15-1001. General conditions/requirements.

15-1002. Access plan. 15-1003. Design criteria.

15-1004. Required off-street parking.

- 15-1001. General conditions/requirements. (1) Submission of plan for approval. The location and design of driveways and/or accesses providing vehicular access from arterial, secondary and minor roads to any existing undeveloped lot, and lots proposed for creation by the subdivision of property in all zoning districts shall be specified in an access plan submitted by the applicant to the town manager or his designee for review and approval provided, however, that access to arterial roads shall be subject to approval by the town council. No curbs or rights-of-way shall be cut, paved or otherwise altered until written approval of the access plan has been secured from the town manager or his designee and any other governmental agency owning or controlling the road right-of-way.
- (2) <u>Traffic impact study</u>. The town manager or his designee may require a traffic impact study by a qualified registered professional engineer to assess the traffic impacts of a proposed access to the adjoining and nearby public roadways and intersections when the expected number of trips generated by the proposed building or land use exceeds an estimated 300 vehicle trips per day.

Unless otherwise specified by the town manager or his designee, the study shall address trip generation and directional distribution, traffic assignment to roadways and access locations, 24 hour and peak hour traffic forecasting (non-site and on-site), capacity analysis and level of service for adjoining roadways and nearby intersections before and after the proposed development, and recommendations for roadway improvements and traffic control modifications. All traffic data used in the study shall be consistent with land use and density data as referenced in <u>Trip Generation</u>, Fourth Edition, 1987, published by the Institute of Transportation Engineers, or the latest subsequent edition; current town and state traffic counts for surrounding public roadways; and the marketing study for the proposed building or land use.

- (3) Approval for specific land use. The approval of any access hereunder shall be approval of access for the land use(s) specified in the access plan and any change in such land use(s) that would increase traffic and impact the safe and efficient flow of traffic shall require a new approval of access.
- (4) <u>Expiration of approval</u>. Any access approved hereunder shall be constructed within six (6) months of approval or such approval shall terminate.

- (5) Bond requirements. Prior to issuing any written approval of the access plan, an applicant will be required to provide an insurance performance policy from a company acceptable to the town manager indicating that it is insured, naming the town as an additional insured, and agreeing to indemnify and hold the town harmless from all claims of personal injury or property damage which may arise from or out of the performance of any work in accordance with the access plan, whether such performance be by the applicant, a contractor or subcontractor, or anyone employed by such contractor or subcontractor. Such insurance shall cover general liability for work performed in accordance with the access plan, general liability for equipment performing any changes to access to the roadway in accordance with the access plan and shall include protection against liability arising from completed operations. The minimum amount of liability insurance for bodily injury by the applicant shall be an amount not less than \$130,000 for each person and \$350,000 for each accident and for property damages in an amount not less than \$50,000.
- (6) <u>Prohibition of unsafe access</u>. Notwithstanding any other provisions of this code to the contrary, any access may be denied which would constitute a threat or danger to the public and/or affect the safe and efficient flow of traffic when judged by commonly accepted and applied traffic engineering principles. (As added by Ord. #98-5, March 1998)
- 15-1002. Access plan. An access plan is required for each new building or use of land. Such an access plan may be submitted by the applicant as a part of the off-street parking lot site plan, or in the case of issuance of a residential building permit, such information may be included on the site or plot plan. Such plan shall specify the intended use(s) of the property.
- (1) For commercial, industrial, office, institutional and apartment complex projects. The access plan, minimally drawn to a scale of 1 inch equals 50 feet, shall be submitted to the town manager or his designee. The plan shall denote the location of the driveway on the lot and length of all property lines abutting the public road; distances from intersections (centerline of intersection to centerline of driveway); areas proposed for roadway construction on the right-of-way including the width and length of driveways and deceleration lanes, radius of curves, typical pavement section, type of concrete curbs and any relocation of sidewalks; location of existing overhead and underground utilities, hydrants and drainage structures and any proposed relocations; road improvements proposed for dedication to the town and specific actions to be taken by the contractor to maintain safe driving conditions during roadway construction.
- (2) <u>For residential housing</u>. The access plan for residential use exclusive of apartment complexes shall include the following information: proposed location of driveway on the lot from the side property line, length of all property lines abutting public streets, length and width of driveway from edge of public street pavement and location of existing overhead and on-grade

utilities, hydrants and drainage structures. (As added by Ord. #98-5, March 1998)

- 15-1003. <u>Design criteria</u>. The following minimum standards shall apply in the design of driveways to arterial roads and other public roads:
- (1) <u>Number of driveways permitted</u>. Access to an arterial, secondary or minor road shall be provided to any lot either by means of a marginal frontage road, shared access easement, or direct access way.

Where the use of marginal frontage roads or the provision of common access easements to serve multiple lots with different ownership is unavailable or deemed unnecessary, there shall be no more than one driveway to any one arterial roadway from any lot with less than 400 feet of frontage on that roadway.

Lots having between 400 feet and 600 feet of frontage on any arterial roadway may have a second driveway to that roadway provided that, in the opinion of the town manager or his designee, an additional driveway is justified based on trip generation or topography and that the impact to traffic on the roadway is minimal.

Lots having more than 600 feet of frontage to any one arterial roadway may have more than two driveways provided that, in the opinion of the town manager, or his designee, additional driveways are justified based on trip generation or topography and that the impact to traffic on the roadway is minimal.

All driveways serving the same lot shall be a minimum of 200 feet apart, measured from the centerline to centerline of the two driveways.

<u>Secondary and minor roads</u>. There shall be no more than one driveway to a secondary or minor road from any lot with 300 feet or less of frontage on that roadway except for duplex (two unit) residential units which shall be permitted no more than two (2) driveways on the lot.

Lots having more than 300 feet of frontage to any secondary or minor road may have more than two driveways provided that, in the opinion of the town manager or his designee, additional driveways are justified based on trip generation or topography and that the impact to traffic on the roadway is minimal.

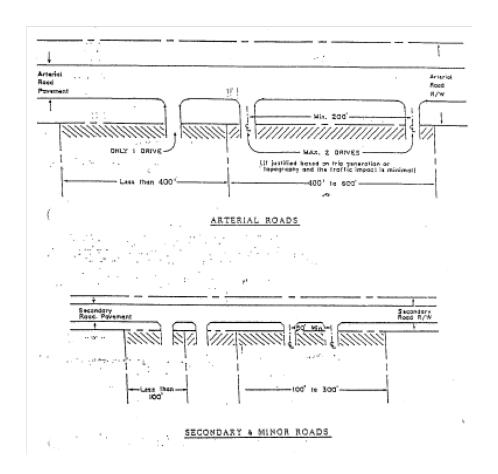
- (2) <u>Minimum distance from intersection</u>. No driveway to an arterial road shall be established within one hundred and twenty-five (125) feet of an intersecting road. On secondary and minor roads, no driveway shall be established within seventy-five (75) feet of an intersecting road. Measurements shall be made along the edge of the pavement from the nearest point of tangency of the curve of the intersecting road pavement to the nearest point of radius return of the driveway.
- (3) <u>Minimum distance between driveways on separate lots</u>. No two driveways serving separate lots on an arterial road shall be less than two hundred and fifty (250) feet apart.

On secondary and minor roads and in all zoning districts except one-family residential and R-2, two-, three-, four family residential, no two driveways serving separate lots shall be less than twenty (20) feet apart. The distance between driveways shall be measured from the nearest point of the radius return of the two driveways.

The minimum separation distance may be reduced provided that, in the opinion of the town manager or his designee, using commonly accepted and applied traffic engineering principles, the following conditions exist:

- (a) Where the use of marginal frontage roads or shared access easements are not feasible or possible;
- (b) Where exceptional topographic constraints or unusual site conditions at the driveway location (such as in-place utility or drainage features) would make application of the standard exceptionally and/or practically difficult or unduly harsh;
- (c) Where application of this article would conflict with other sections of this article;
- (d) Where such reduction would not constitute a threat or danger to the safe and efficient flow of traffic.

DESIGN CRITERIA NUMBER OF DRIVEWAYS



- (4) <u>Minimum distance from property line</u>. No driveway, other than a shared driveway as authorized under subsection 8., <u>Shared Access Easements</u>, below, shall be allowed within ten (10) feet of the intersection of a straight line projection of any side or rear lot line and the nearest point of radius return of the driveway, except for single or double parking spaces for use in one-family, residential and two-, three- and four-family residential zoning districts.
- (5) <u>Deceleration lanes</u>. Approval of a driveway to an arterial road may be conditioned upon construction of a deceleration lane. Such lanes may be required in conjunction with each driveway to secondary and minor roads where a proposed building or land use will increase traffic volumes on the existing road to a total in excess of 3,000 vehicles daily. The deceleration lane, a minimum of twelve (12) feet in width, shall be constructed to town standards with the length measured from the centerline of the driveway according to the following criteria:

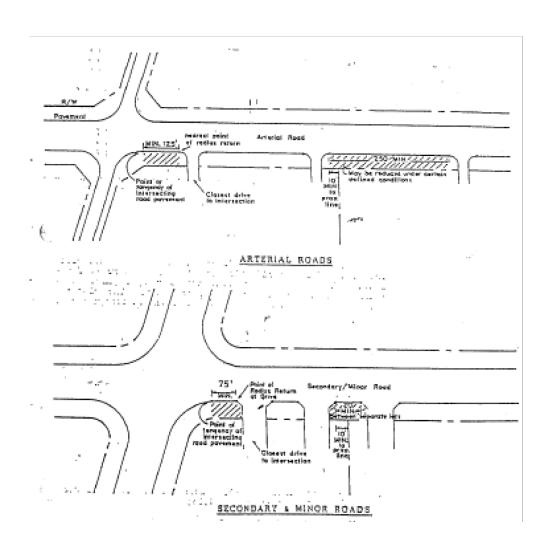
3.5	_		-
Minimum	Dece	leration	Lane

Posted Speed Limit	Length of Taper	Total Length
35 mph or less	125'	200'
40 to 45 mph	150'	250'
50 to 55 mph	175'	300'

The minimum dimensions of the deceleration lane may be reduced, provided that, in the opinion of the town manager or his designee, using commonly accepted and applied traffic engineering principles, the following conditions exist:

- (a) Where exceptional topographic constraints or unusual site conditions at the driveway location such as in-place utility or drainage features which would make strict application of the standard exceptionally and/or practically difficult or unduly harsh.
- (b) Where such reduction would not constitute a threat or danger to the safe and efficient flow of traffic.
- (6) <u>Left turn storage lane</u>. Approval of a driveway to an arterial road which does not have an exclusive left turn storage lane may be conditioned upon construction of a left turn storage lane. Such lanes may be required in conjunction with each driveway to secondary and minor roads where a proposed land use will increase traffic volume on the existing road to a total in excess of 3,000 vehicles daily. The left turn storage lane, a minimum of twelve (12) feet in width, shall be constructed to town standards with the minimum storage length established according to the following criteria:

MINIMUM DISTANCE FROM INTERSECTION $\label{eq:minimum} \mbox{MINIMUM DISTANCE BETWEEN DRIVEWAYS ON SEPARATE LOTS }$ $\mbox{MINIMUM DISTANCE FROM PROPERTY LINE}$



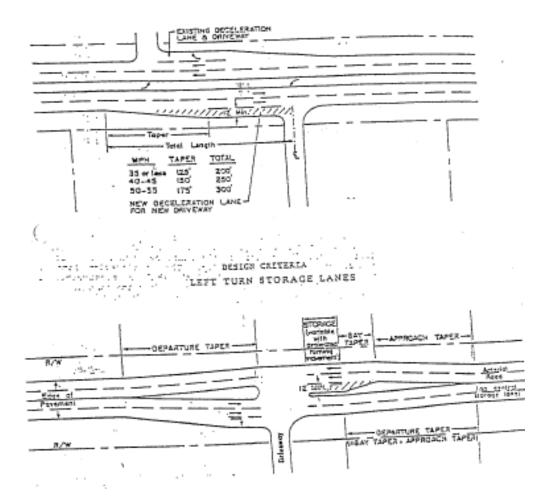
Projected Peak Hour Left Turning Movements (Vehicles)	Minimum Storage Length Required
Less than 30	No requirement
30-59	25'
60-89	50'
90-119	75'
120-149	100'
150-179	125'
180-209	150'
Above 210	Prorated using above lengths as guideline

Each left turn storage lane shall be required to have sufficient paved approach and transition return tapers constructed to town standards in accordance with commonly accepted and applied traffic engineering principles.

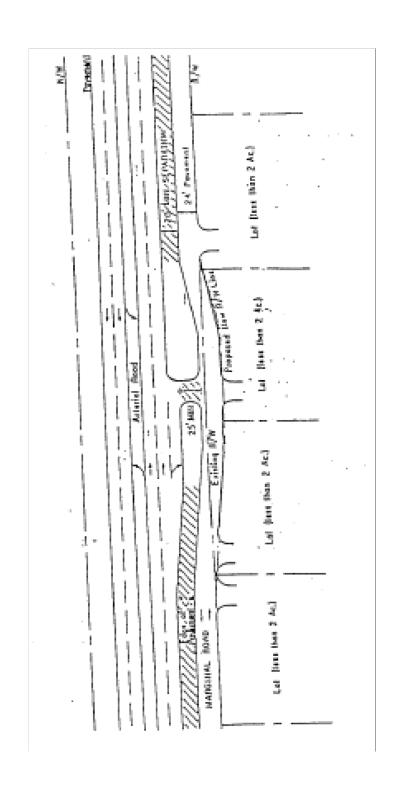
Any vehicle trip generation and directional distribution data submitted shall be consistent with traffic data for similar projects as referenced in <u>Trip Generation</u>, Fourth Edition, 1987, published by the Institute of Transportation Engineers, or the latest subsequent edition.

- (7) Marginal frontal roads. Marginal frontage roads to driveways, 24 feet in width for two 12-foot traveling lanes, may be required in all zoning districts, except one-family residential, R-2, two-, three-, four-family residential. Such marginal frontage roads shall be located on the public right-of-way adjacent and parallel to the full length of contiguous through roads and/or on private property which may be dedicated as future public right-of-way. Such marginal frontage roads shall be constructed to town standards and in a manner so as to be separated at least 20 feet from the existing roadway except at permitted driveway entrances or where otherwise specified by the town manager or his designee. The length of the driveway from the through road to a marginal frontage road shall be a minimum of 25 feet between the edge of pavement of the two roads. The requirement for a marginal frontage road:
 - (a) Where a proposed or anticipated future subdivision of property will or may create three or more lots of less than two acres each with frontage to an arterial road, or

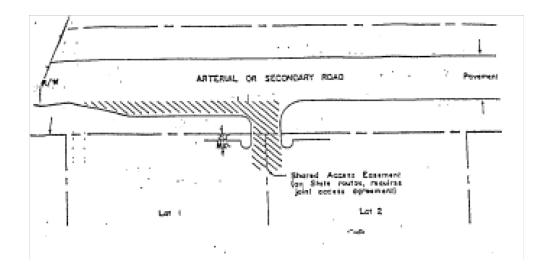
DESIGN CRITERIA DECELERATION LANES



DESIGN CRITERIA MARGINAL FRONTAGE ROADS



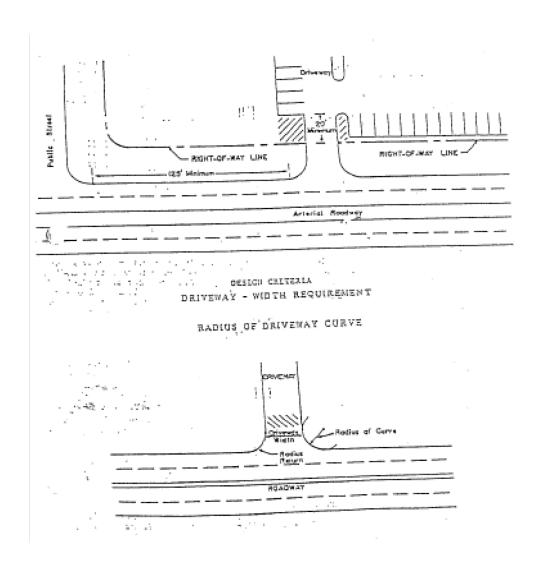
DESIGN CRITERIA SHARED ACCESS EASEMENTS



- (b) In other situation where, considering commonly accepted and applied traffic safety principles, such is necessary to ensure the safe and efficient flow of traffic.
- (8) <u>Shared access easements</u>. In the resubdivision of property, the planning commission may require the formal establishment of private property driveway easements or may impose other conditions that require multiple lots or parcels to have shared vehicle access locations to arterial, secondary and minor roads where, in accordance with commonly accepted and applicable traffic engineering principles, such is necessary to provide for the safe and efficient flow of traffic upon such streets.
- (9) <u>Driveways-minimum length/restrictions</u>. All driveways for commercial, industrial, office, institutional and apartment complexes must extend a minimum of 20 feet into the property from the lot line abutting the public road before the edge of the driveway may be intersected by a parking lot space, aisle, or drive. The minimum length of this restricted driveway may be extended where, in the opinion of the town manager or his designee, anticipated traffic volumes and commonly accepted and applied traffic engineering principles justify the need for longer, controlled storage lanes.
- (10) <u>Boulevard-type driveways</u>. Boulevard-type driveways in which ingress and egress lanes are separated by a minimum six-inch raised concrete curb median may exceed the maximum two-way width provided the individual ingress or egress lane does not exceed the limits of one-way access width and the median does not exceed 14 feet in width.
- (11) <u>Driveways-width requirements</u>. The widths of driveways, measured at the nearest points of the radius return, shall meet the following requirements:

	Driveway Width	
Use	Min.	Max.
Office, Commercial, Institutional Apartment Complexes:		
One-way Traffic	15 ft.	20 ft.
Two-way Traffic	25 ft.	30 ft.
Industrial		
One-Way Traffic	15 ft.	25 ft.
Two-Way Traffic	25 ft.	40 ft.

DESIGN CRITERIA DRIVEWAYS - MINIMUM LENGTH



Driveways to commercial, office or institutional developments may exceed the maximum width stated herein, provided that, in the opinion of the town manager or his designee,

- (a) The need to provide safer turning movements for truck traffic to or from such property and/or
- (b) The number of trips generated to or from such property justifies the need for additional access width.
- (12) <u>Radius of driveway curve</u>. The radius of curve connecting the edge of the deceleration or acceleration lane or through-traffic lane and edge of driveway shall meet the following requirements:

Use	Radius of Curve	
	Min.	Max.
Office, Commercial, Institutional, Apartment Complexes:		
To Arterial Roads	15 ft.	25 ft.
Secondary and Minor Roads	10 ft.	20 ft.
Industrial		
To Arterial Roads	20 ft.	30 ft.
Secondary and Minor Roads	15 ft.	25 ft.

The radius of the driveway curve to residential, commercial, office or institutional developments may exceed the maximum length stated herein, provided that, in the opinion of the town manager or his designee,

- (a) The need to provide safer turning movements for automobile and truck traffic to or from such property and/or
- (b) The number of trips generated to or from such property justifies the need for additional radius length.
- (13) <u>Pavement markings, signage</u>. Driveways with more than one ingress or egress lane shall have the pavement surface marked with center lines, lane lines, channelizing lines, stop lines, and symbol arrows plus traffic control signage in accordance with the requirements of the <u>Manual on Uniform Traffic Control Devices</u>, Tennessee Department of Transportation, Traffic Engineering Division, 1988, or subsequent revisions. (As added by Ord. #98-5, March 1998)
- 15-1004. Required off-street parking. (1) Required compliance. Off-street parking shall be provided for all buildings and land uses erected or established after enactment of these regulations in accordance with the

standards of this section. No building or land use shall be occupied or established until the town manager issues a certificate of occupancy which certifies that all provisions of this section of this chapter are satisfied. (As added by Ord. #98-5, March 1998)

TITLE 16

STREETS AND SIDEWALKS, ETC.¹

CHAPTER

- 1. GENERAL.
- 2. BUILDING NUMBERING.
- 3. EXCAVATIONS AND CUTS.
- 4. CURB AND SIDEWALK CONSTRUCTION AND MAINTENANCE.

CHAPTER 1

GENERAL

SECTION

- 16-101. Obstructing streets, alleys, or sidewalks prohibited.
- 16-102. Trees projecting over streets, etc., regulated.
- 16-103. Removal of weeds and trees overhanging sidewalks.
- 16-104. Trees, shrubs, signs, or other obstructions to traffic view at intersections prohibited.
- 16-105. Littering streets, alleys, or sidewalks prohibited.
- 16-106. Obstruction of drainage ditches.
- 16-107. Abutting owners, occupants to keep sidewalks clean, and unobstructed.
- 16-108. Parades, etc.
- 16-109. Animals and vehicles on sidewalks.
- 16-110. Joggers and pedestrians during certain hours.
- 16-111. Opening streets, alleys, and sidewalks without permission is prohibited.
- 16-112. Pedestrian crossings.

16-101. Obstructing streets, alleys, or sidewalks prohibited. 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.

Furthermore, 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. (1985 Code, § 12-101)

¹Selected charter reference: authority to open and administer public ways - sec. 15.

See title 15 in this code for related motor vehicle and traffic regulations.

- 16-102. <u>Trees projecting over streets, etc., regulated</u>. 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. (1985 Code, § 12-102)
- 16-103. Removal of weeds and trees overhanging sidewalks. It shall be the duty of each and every owner and occupant of property within the town, in front of or along which is a sidewalk, to remove all weeds, shrubbery or branches of trees that may be over the sidewalks that obstruct the free use and passage of the sidewalks or any portion thereof, within five (5) days after receiving written notice therefor from the town. (1985 Code, § 12-103)
- 16-104. Trees, shrubs, signs, or other obstructions to traffic view at intersections prohibited. It shall be unlawful for any property owner or occupant to have or maintain on any property within the town 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. It shall be further unlawful for the owner or occupant of any lot at any street intersection in the town to maintain any hedge, fence, shrubbery, trees, or other obstruction which is more than three (3) feet in height for a distance of twenty-five (25) feet back from the lot line at such street intersection. Any owner or occupant of a lot at such an intersection having a fence, hedge, shrubbery, trees, or other obstruction which is more than three (3) feet in height shall remove the same or reduce the height thereof to not more than three (3) feet for a distance of twenty-five (25) feet back from the lot line, or remove any tree limb which is less than ten (10) feet in height and which is within twenty-five (25) feet of the lot line intersection upon written request from the town manager if it is determined that such obstruction prevents persons driving vehicles on public streets or alleys from obtaining a clear view of traffic when approaching the intersection. (1985 Code, § 12-104, as replaced by Ord. #2006-5, May 2006)
- 16-105. <u>Littering streets</u>, alleys, or <u>sidewalks prohibited</u>. It shall be unlawful for any person to litter, place, throw, trash, 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. (Ord. # 86-1, March 1986)
- 16-106. Obstruction of drainage ditches. It shall be unlawful for any person to permit or cause the obstruction of any drainage ditch in any public right of way.

For the construction, reconstruction, modification, or repair of all driveways which cross a drainage ditch in the town right-of-way, the public

works department shall inspect and approve the driveway culvert for size, location and material. (1985 Code, § 12-106, as replaced by Ord. #96-4, § 1, May 1996)

- 16-107. Abutting owners, occupants to keep sidewalks clean and unobstructed. Each owner or occupant in the town, in front of or along which there is a sidewalk, shall keep such sidewalk clean and unobstructed, except for such obstructions as are permitted by this code or other ordinance. Each such owner or occupant shall cause the removal at once of all accumulations of mud, filth, snow and ice and every other substance or thing which may constitute an obstruction or impediment to pedestrians, and every thing in the nature of a nuisance. (1985 Code, § 12-107)
- 16-108. Parades, etc. 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. No permit shall be issued by the town unless such activity will not unreasonably interfere with traffic and unless such representative shall agree to see to the immediate cleaning up of all litter which shall be left on the streets as a result of the activity. Furthermore, it shall be unlawful for any person obtaining such a permit to fail to carry out his agreement to clean up the resulting litter immediately. (1985 Code, § 12-108)
- 16-109. 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 in such manner as unreasonably interferes with or inconveniences pedestrians using the sidewalk. It shall also be unlawful for any person knowingly to allow any minor under his control to violate this section. (1985 Code, § 12-109)
- 16-110. <u>Joggers and pedestrians during certain hours</u>. It shall be unlawful for any jogger or other pedestrian within the town limits of the Town of Signal Mountain, Tennessee, to walk, jog or run upon public streets during the period beginning one hour before sunset until sunrise, or during daylight hours when visibility is restricted to less than three hundred (300) feet by fog or inclement weather, unless such person's clothing shall include reflectorized areas not less than one square foot each in area on the chest and on the back of such person which shall be visible from all distances from fifty (50) feet to three hundred (300) feet from the front and to the rear when directly in front of lawful upper beams of headlamps on motor vehicles; provided, however, that this section shall not be construed so as to prohibit any person from walking, jogging or running upon the public streets without reflectorized clothing during the hours specified above when such person is traversing a distance of three hundred (300) feet or less upon the public streets; provided that this section

shall not be interpreted to require reflectorized clothing on pedestrians on public sidewalks during the hours specified. (1985 Code, § 12-110)

- 16-111. Opening streets, alleys, and sidewalks without permission is prohibited. It shall be unlawful for any person, corporation, or legal entity to open any road, street, alley, sidewalk, trail or other right-of-way in the limits of the Town of Signal Mountain, without first submitting a plan of same to the Signal Mountain Planning Commission for recommendation to the town council and receiving approval of the town council. (Ord. # 87-2, March 1987)
- 16-112. <u>Pedestrian crossings</u>. Pedestrians have the right-of-way at marked crossings. It shall be unlawful for any driver to fail to bring their vehicle to a complete stop at marked pedestrian street crossings when pedestrians are in the marked crossing areas or are waiting to use the marked crossing areas. (as added by Ord. #2013-01, Jan. 2013)

CHAPTER 2

BUILDING NUMBERING

SECTION

- 16-201. Buildings required to be numbered.
- 16-202. Number visibility required.
- 16-203. Unnumbered buildings to be numbered by town at owner's expense.
- 16-201. <u>Buildings required to be numbered</u>. All buildings in the town shall display the proper building numbers thereof, which numbers shall be designated by the town. (1985 Code, § 12-201)
- 16-202. <u>Number visibility required</u>. All numerals used to number buildings as required by section 16-201 above shall be so placed as to be clearly visible from the street. (1985 Code, § 12-202)
- 16-203. <u>Unnumbered buildings to be numbered by town at owner's expense</u>. Any building not numbered in accordance with the provisions of this chapter upon notice from the town therefor, shall be numbered by the town at the owner's expense. (1985 Code, § 12-203)

CHAPTER 3¹

EXCAVATIONS AND CUTS²

SECTION

- 16-301. Permit required.
- 16-302. Applications.
- 16-303. Fee.
- 16-304. Deposit or bond.
- 16-305. Manner of excavating--barricades and lights--temporary sidewalks.
- 16-306. Restoration of streets, etc.
- 16-307. Insurance.
- 16-308. Time limits.
- 16-309. Supervision.

16-301. Permit required. It shall be unlawful for any person, firm, corporation, association, or others 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; and 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 recorder is open for business, and said permit shall be retroactive to the date when the work was begun. (1985 Code, § 12-301)

16-302. <u>Applications</u>. Applications for such permits shall be made to the commissioner of streets, 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, 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

¹See also title 12, chapter 7 for <u>Site Preparation</u>, <u>Excavation</u>, and <u>Grading Code</u>.

²Sections 16-301 through 16-309 in this chapter were patterned substantially after the ordinance upheld by the Tennessee Supreme Court in the case of <u>City of Paris, Tennessee v. Paris-Henry County Public Utility District</u>, 207 Tenn. 388, 340 S.W.2d 885 (1960).

to the work to be done. Such application shall be rejected or approved by the commissioner/superintendent of streets within twenty-four (24) hours of its filing. (1985 Code, § 12-302)

16-303. <u>Fee.</u> The fee for such permits shall be two dollars (\$2.00) for excavations which do not exceed twenty-five (25) square feet in area or tunnels not exceeding twenty-five (25) feet in length; and twenty-five cents (\$0.25) for each additional square foot in the case of excavations, or lineal foot in the case of tunnels; but not to exceed one hundred dollars (\$100.00) for any permit. (1985 Code, § 12-303)

16-304. Deposit or bond. No such permit shall be issued unless and until the applicant therefor has deposited with the comptroller a cash deposit. The deposit shall be in the sum of twenty-five dollars (\$25.00) if no pavement is involved or seventy-five dollars (\$75.00) 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 superintendent of streets/commissioner of streets may increase the amount of the deposit to an amount considered by him to be adequate to cover the said 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 comptroller a surety bond in such form and amount as the superintendent of streets/commissioner of streets shall deem adequate to cover the costs to the town if the applicant fails to make proper restoration. (1985 Code, § 12-304)

16-305. Manner of excavating-barricades and lights-temporary sidewalks. 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. (1985 Code, § 12-305)

16-306. 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 municipality shall restore said 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 commissioner of streets/superintendent of streets 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. (1985 Code, § 12-306)

16-307. 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 superintendent of streets 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. (1985 Code, § 12-307)

16-308. <u>Time limits</u>. 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 superintendent of streets. (1985 Code, § 12-308)

16-309. <u>Supervision</u>. The superintendent of streets 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. (1985 Code, § 12-309)

CHAPTER 4

CURB AND SIDEWALK CONSTRUCTION AND MAINTENANCE

SECTION

- 16-401. When owner/occupant to repair sidewalk.
- 16-402. Specifications for construction and repair; permit required.
- 16-403. Failure to repair; notice authorized.
- 16-404. Notice where owner unavailable; no agent and property deserted.
- 16-405. Failure to comply with notice.
- 16-406. Failure to comply with work.
- 16-407. Liability of the abutting owner for injuries to persons.
- 16-408. Action by Town of Signal Mountain for judgments against it.
- 16-401. When owner/occupant to repair sidewalk. When any sidewalk becomes out of repair or in any manner defective, whether in the bed, pavement, or curbing thereof, the owner/occupant or agent shall cause such sidewalk to be reconstructed or put in good repair according to specifications required by the Town of Signal Mountain as to grade, dimensions, and character of said sidewalks or curbing or gutter and pavements, the material of which they shall be constructed and the manner in which they shall be laid. (as added by ord. No. 91-5)
- 16-402. Specifications for construction and repair; permit required. The type of repairs to existing sidewalks shall be such as may be prescribed and approved by the town council. The owner/occupant or agent in charge of the property where such work is to be done shall apply to the town manager for specifications and instructions setting forth the manner in which the work shall be performed and for a permit authorizing such work and in doing such work shall conform to the specifications and instructions required by the Town of Signal Mountain. (as added by ord. No. 91-5)
- 16-403. <u>Failure to repair</u>; notice authorized. If the owner/occupant or agent fails or refuses to reconstruct or repair any required sidewalk or curbing, the town manager may direct the issuance of a written notice by registered mail with return receipt requested or personal delivery to the owner/occupant or agent if the owner is a non-resident, unknown, or cannot be located, requiring that the necessary work be done. (as added by ord. No. 91-5)
- 16-404. Notice where owner unavailable; no agent and property deserted. If the owner is a non-resident, unknown, or cannot be located and there is no known agent therefore and the property is not occupied, the notice shall be posted for at least five (5) days on such lot or property. (as added by ord. No. 91-5)

16-405. <u>Failure to comply with notice</u>. Failure or refusal by the owner, occupant, or agent, if the owner cannot be notified, to commence such necessary work within ten (10) days of the receipt or posting of such notice shall be unlawful and each day thereafter shall constitute a separate violation. (as added by ord. No. 91-5)

16-406. <u>Failure to complete work</u>. Failure or refusal to complete such necessary work according to specifications and instructions after it has once been commenced shall be unlawful.

If after proper written notice the owner/occupant, or agent fails or refuses to reconstruct or repair any sidewalk or curbing, then the town manager may contract for such construction or repair and pay for the same. The amount so paid shall constitute a lien on the lots or property belonging to such owners upon or along which said sidewalk or curbing or gutter or pavement may be constructed, which liens may be enforced by attachment, in law or in equity, prosecuted in the name of the Town of Signal Mountain; or the Town of Signal Mountain may sue for and recover the amount so paid from said property owners in any court having jurisdiction of such causes of action; provided, however, that the said Town of Signal Mountain by and with the consent of the property owners affected, instead of proceeding as herein before prescribed for the recovery of the amounts expended in the construction or repair of sidewalks or gutters or curbing as aforesaid, may divide the amount so expended on each lot or piece of property into equal installments not less than two (2) nor more than five (5) in number and required that one (1) installment shall be paid each year along with and as part of the taxes on said property until all said installments are paid; and in that event, each of said installments shall draw interest at the rate of ten (10%) percent per annum from the date of the payment by the Town of Signal Mountain of the expense of such construction or repair. (as added by ord. No. 91-5)

16-407. <u>Liability of the abutting owner for injuries to persons</u>. In all instances of injury to persons resulting from negligently unsafe and defective conditions in the sidewalk, the construction of which or the repair of which the abutting property owner or his agent has been notified to effectuate in the manner heretofore provided more than five (5) days before the happening of such injury, the abutting property owner shall be liable in damages. (as added by ord. No. 91-5)

16-408. Action by Town of Signal Mountain for judgments against it. If any judgment is obtained against the Town of Signal Mountain as a result of negligently defective conditions of the sidewalk, guttering, or curbing owing to personal injuries received by any person more than five (5) days after the service of the notice, the town attorney shall institute proper legal proceeding against

such property owner for the recovery over the amount of any such judgment. (as added by ord. No. 91-5)

TITLE 17

REFUSE AND TRASH DISPOSAL

CHAPTER 1. REFUSE.

CHAPTER 1

REFUSE

SECTION

- 17-101. Refuse defined.
- 17-102. Definitions--premises to be kept clean.
- 17-103. Storage.
- 17-104. Placement of containers for collection.
- 17-105. Disturbing containers.
- 17-106. Collection.
- 17-107. Collection vehicles.
- 17-108. Disposal.
- 17-109. Sale of useable scrap.
- 17-110. Leaves and grass clippings.
- 17-111. Residential garbage pickup services within existing residences adjoining private streets within Stonewood and Jamestown condominium developments.
- 17-101. <u>Refuse defined</u>. Refuse shall mean and include garbage, rubbish, leaves, grass clippings, brush, and refuse as those terms are generally defined except that dead animals and fowls, body wastes, hot ashes, rocks, concrete, bricks, and similar materials are expressly excluded therefrom and shall not be stored therewith. (1985 Code, § 8-201, as amended by ord. No. 92-14)
 - 17-102. Definitions--premises to be kept clean. (1) Definitions.
 - (a) "Debris." The remains of something broken or destroyed.
 - (b) "Rubbish." Something that is worthless, useless waste or rejected matter.
 - (c) "Unlawful clutter." Non-waste toys, tools, papers of every description, auto parts, furniture, appliances, discarded sand, broken limbs, discarded gravel, ashes, brick bats, tin cans, empty glass containers, trash, garbage, old firewood not neatly stacked, lumber, mattresses, building materials, yard maintenance items, usable items left in the yard for days at a time, discarded materials of every kind, all of which is left in front, back or side yards, not under roof, more than one

- week; or non-waste building material left in front, back or side yards for more than thirty days.
- (2) Premises to be kept clean. All persons within the town are required to keep their premises in a clean and sanitary condition, free from accumulations of refuse except when stored as provided in this chapter. No person shall allow old automobiles, rusty iron, or vehicles of any type to accumulate on their property so as to create an unsightly nuisance. No person shall allow or leave any debris, rubbish, or unlawful clutter (as defined above) on their property for longer than the above-stated time periods. All yards, side, front and back must be kept clean as above outlined. (1985 Code, § 8-202, as amended by Ord. #98-10, April 1998)
- 17-103. Storage. Each owner, occupant, or other responsible person using or occupying any building or other premises within this town where refuse accumulates or is likely to accumulate, shall provide and keep covered an adequate number of refuse containers. The refuse containers shall be strong, durable, and rodent and insect proof. They shall each have a capacity of not less than twenty (20) nor more than thirty-two (32) gallons, except that this maximum capacity shall not apply to larger containers which the town handles mechanically. Furthermore, except for containers which the town handles mechanically, the combined weight of any refuse container and its contents shall not exceed seventy-five (75) pounds. No refuse shall be placed in a refuse container until such refuse has been drained of all free liquids. (1985 Code, § 8-203)
- 17-104. Placement of containers for collection. Where alleys are used by the municipal refuse collectors, containers shall be placed on or within six (6) feet of the alley line in such a position as not to intrude upon the traveled portion of the alley. Where streets are used by the town refuse collectors, containers shall be placed adjacent to and back of the curb, or adjacent to and back of the ditch or street line if there be no curb, after sundown, the night before the calendar day of collection or on the calendar day of collection. By the end of the calendar day of collection, after such containers have been emptied, the containers shall be moved by the owner to a place on his premises behind the front building line, or if a corner lot behind a second building line for the second street frontage so garbage cans cannot be out on the street to the side of the house. (1985 Code, § 8-204, as replaced by Ord. #94-6, § 1, Aug. 1994; and further replaced by Ord. #95-13, § 1, Nov. 1995)
- 17-105. <u>Disturbing containers</u>. No unauthorized person shall uncover, rifle, pilfer, dig into, turn over, or in any other manner disturb or use any refuse container belonging to another. This section shall not be construed to prohibit the use of public refuse containers for their intended purpose. (1985 Code, § 8-205)

- 17-106. <u>Collection</u>. All refuse accumulated within the corporate limits shall be collected, conveyed, and disposed of under the supervision of such officer as the town council shall designate. Collections shall be made regularly in accordance with an announced schedule. (1985 Code, § 8-206)
- 17-107. <u>Collection vehicles</u>. The collection of refuse shall be by means of vehicles with beds constructed of impervious materials which are easily cleanable and so constructed that there will be no leakage of liquids draining from the refuse onto the streets and alleys. Furthermore, all refuse collection vehicles shall utilize closed beds or such coverings as will effectively prevent the scattering of refuse over the streets or alleys. (1985 Code, § 8-207)
- 17-108. <u>Disposal</u>. (1) The disposal of refuse in any quantity by any person in any place, public or private, other than at the site or sites designated for refuse disposal by the town council is expressly prohibited. No person shall place anything in or on the town sanitary landfill without the express permission of such officer as the town council shall designate.
- (2) It shall be unlawful for any person not a resident of the town to throw or dump refuse upon any sanitary landfill owned or operated by the town.
- (3) It shall be unlawful for any person engaged commercially in the collection or hauling of refuse to use the town dump without having a contract with the town for such use. (1985 Code, § 8-208)
- 17-109. <u>Sale of useable scrap</u>. The town shall take proper steps to bale scrap that can be used and that such scrap be processed and sold at the best market price obtainable. (1985 Code, § 8-209)
- 17-110. <u>Leaves and grass clippings</u>. All grass clippings to be picked up by the town shall be placed in plastic bags or any other approved containers on the curb of a public street of the Town of Signal Mountain.

Leaves may be placed in plastic bags, garbage cans and other approved containers or piled loose along the curb or side of any public road in the Town of Signal Mountain, Tennessee.

No leaves or grass clippings will be picked up from private driveways or private roads unless such areas are:

- (1) Accessible (ingress and egress) to the standard equipment and crew which performs such work;
- (2) The standard equipment's vehicles will not cause undue damage to the private road; and,
- (3) All property owners on the private road sign waivers from pursuing damage claims from the town for damage to the private road or other private property traversed by the crew and equipment in providing such services. (as added by Ord. No. 92-13 and replaced by Ord. #97-3, April 1997)

17-111. <u>Commercial refuse fees</u>. The town may provide pickup services for limited amounts of refuse from commercial businesses within the town for established rates which shall be collected by the town manager. All fees for commercial refuse pickup shall be paid in accordance with the schedule below:

Equipment:

First two cans No charge

Third can \$60.00

Fourth can \$60.00

Pickup rate:

First two cans No charge

Third can \$13.00 per month

Fourth can \$13.00 per month

(as added by Ord. #2008-4, April 2008, as replaced by Ord. #2008-12, Oct. 2008)

TITLE 18

WATER AND SEWERS

CHAPTER

- 1. WATER AND SEWER ADMINISTRATION.
- 2. PUBLIC SEWER USE AND COST RECOVERY SYSTEM.
- 3. CROSS-CONNECTIONS, AUXILIARY INTAKES, BY-PASSES, ETC.
- 4. WATER SHORTAGE AND DROUGHT CONDITIONS.
- 5. SEPTIC TANK EFFLUENT PUMP (S.T.E.P.) SYSTEMS.
- 6. SEPTIC SYSTEMS OTHER THAN SEPTIC TANK EFFLUENT PUMP (S.T.E.P.) SYSTEMS.
- 7. STORMWATER RUNOFF REGULATION AND CONTROL.
- 8. STORMWATER UTILITY ORDINANCE.
- 9. FLOOD INSURANCE REGULATIONS.

CHAPTER 1

WATER AND SEWER ADMINISTRATION

SECTION

- 18-101. Application and scope.
- 18-102. Definitions.
- 18-103. Application and contract for service.
- 18-104. Service charges for temporary service.
- 18-105. Meters.
- 18-106. Meter tests.
- 18-107. Schedule of rates.
- 18-108. Access to customer's premises.
- 18-109. Customer's responsibility for system's property.
- 18-110. Supply and resale of water.
- 18-111. Unauthorized use or interference with water supply.
- 18-112. Limited use of unmetered private fire line.
- 18-113. Damages to property due to water pressure.
- 18-114. Restricted use of water.
- 18-115. Interruption of service.
- 18-116. Water distribution installation restrictions.
- 18-101. <u>Application and scope</u>. The provisions of this chapter are a part of all contracts for receiving water and/or sewer service from the town and shall apply whether the service is based upon contract, agreement, signed application, or otherwise. (1985 Code, § 13-101)
- 18-102. <u>Definitions</u>. (1) "Customer" means any person, firm, or corporation who receives water and/or sewer service from the town under either an express or implied contract.

- (2) "Household" means any two (2) or more persons living together as a family group. (1985 Code, § 13-102)
- 18-103. <u>Application and contract for service</u>. Each prospective customer desiring water and/or sewer service will be required to sign a standard form of contract before service is supplied. If, for any reason, a customer, after signing a contract for service, does not take such service by reason of not occupying the premises or otherwise, he shall reimburse the town for the expense incurred by reason of its endeavor to furnish said service.

The receipt of a prospective customer's application for service, regardless of whether or not accompanied by a deposit, shall not obligate the town to render the service applied for. If the service applied for cannot be supplied in accordance with the provisions of this chapter and general practice, the liability of the town to the applicant shall be limited to the return of any deposit made by such applicant. (1985 Code, § 13-103)

- 18-104. <u>Service charges for temporary service</u>. Customers requiring temporary service shall pay all costs for connection and disconnection incidental to the supplying and removing of service in addition to the regular charge for water and/or sewer service. (1985 Code, § 13-104)
- 18-105. <u>Meters</u>. All meters shall be installed, tested, repaired, and removed only by the town.

No one shall do anything which will in any way interfere with or prevent the operation of a meter. No one shall tamper with or work on a water meter without the written permission of the town. No one shall install any pipe or other device which will cause water to pass through or around a meter without the passage of such water being registered fully by the meter. (1985 Code, § 13-105)

18-106. <u>Meter tests</u>. The town will, at its own expense, make routine tests of meters when it considers such tests desirable.

In testing meters, the water passing through a meter will be weighed or measured at various rates of discharge and under varying pressures. To be considered accurate, the meter registration shall check with the weighed or measured amounts of water within the percentage shown in the following table:

Meter Size	<u>Percentage</u>
5/8", 3/4", 1", 2"	2%
3"	3%
4"	4%
6"	5%

The town will also make tests or inspections of its meters at the request of the customer. However, if a test requested by a customer shows a meter to be accurate within the limits stated above, the customer shall pay a meter testing charge in the amount stated in the following table:

$\underline{\mathrm{Meter}}$	<u>Test Charge</u>
5/8", 3/4", 1"	\$ 12.00
1-1/2", 2"	15.00
3"	18.00
4"	22.00
6" and over	30.00

If such test shows a meter not to be accurate within such limits, the cost of such meter test shall be borne by the town. (1985 Code, § 13-106)

18-107. <u>Schedule of rates</u>. The rate schedule for water service for the town water utility shall be as follows:

Tap fees:

Size	<u>Fee</u>
5/8"	\$900.00
3/4"	\$900.00
1"	\$1,100.00
2"	\$3,000.00

Town of Signal Mountain Water Service Rates

Inside Town Limits

Non-refundable service activation fee	\$50.00
Monthly (or portion thereof) service fee - all meters	\$6.00
Water usage charge (per 1,000 gallons)	\$6.67

Outside Town Limits

Non-refundable service activation fee \$60.00

Monthly (or portion thereof) service fee - all meters \$7.20

Water usage charge (per 1,000 gallons) \$8.00

Fees resulting from delinquent bill fees:

Action	<u>Fee</u>
Late fee after due date	10%
Turning water back on	\$25.00
Locking or pulling meter	\$50.00
Turning water on after hours	\$100.00

Other fees:

Action/Service	<u>Fee</u>
Same day service activation	\$25.00 plus normal activation fee
Credit/debit card fee	3.5%
Portable meter/pool fill	\$50.00 plus water usage
Portable meter usage - contractor	\$50.00 per week plus water usage
Returned check/declined ACH	\$35.00
Turn water back on (e.g. yard meter)	\$25.00

(1985 Code, § 13-107, as replaced by Ord. #2006-21, Sept. 2006, amended by Ord. #2008-15, Dec. 2008, replaced by Ord. #2009-13, June 2009, amended by Ord. #2009-18, Sept. 2009, Ord. #2011-3, April 2011, and Ord. #2012-2, Jan. 2012, replaced by Ord. #2019-05, April 2019 *Ch19_8-26-19* and Ord. #2020-08, July 2020 *Ch20_06-28-21*, and amended by Ord. #2021-05, May 2021 *Ch20_06-28-21*)

18-108. Access to customer's premises. The town's identified representatives and employees shall be granted access to all customers' premises at all reasonable times for the purpose of reading meters, for testing,

inspecting, repairing, removing, and replacing all equipment belonging to the town, and for inspecting customer's plumbing and premises generally in order to secure compliance with these rules and regulations. (1985 Code, § 13-108)

- 18-109. <u>Customer's responsibility for system's property</u>. Except as herein elsewhere expressly provided, all meters, service connections, and other equipment furnished by or for the town shall be and remain the property of the town. Each customer shall provide space for and exercise proper care to protect the property of the town on his premises. In the event of loss or damage to such property arising from the neglect of a customer to care for it properly, the cost of necessary repairs or replacements shall be paid by the customer. (1985 Code, § 13-109)
- 18-110. <u>Supply and resale of water</u>. All water shall be supplied within the town exclusively by the town, and no customer shall, directly or indirectly, sell, sublet, assign, or otherwise dispose of the water or any part thereof except with written permission from the town. (1985 Code, § 13-110)
- 18-111. <u>Unauthorized use of or interference with water supply</u>. No person shall turn on or turn off any of the town's stop cocks, valves, hydrants, spigots, or fire plugs without permission or authority from the town. (1985 Code, § 13-111)
- 18-112. <u>Limited use of unmetered private fire line</u>. Where a private fire line is not metered, no water shall be used from such line or from any fire hydrant thereon, except to fight fire or except when being inspected in the presence of an authorized agent of the town.

All private fire hydrants shall be sealed by the town, and shall be inspected at regular intervals to see that they are in proper condition and that no water is being used therefrom in violation of these rules and regulations. When the seal is broken on account of fire, or for any other reason, the customer taking such service shall immediately give the town a written notice of such occurrence. (1985 Code, § 13-112)

- 18-113. <u>Damages to property due to water pressure</u>. The town shall not be liable to any customer for damages caused to his plumbing or property by high pressure, low pressure, or fluctuations in pressure in the town's water mains. (1985 Code, § 13-113)
- 18-114. Restricted use of water. In times of emergencies or in times of water shortage, the town reserves the right to restrict the purposes for which water may be used by a customer and the amount of water which a customer may use. (1985 Code, § 13-114)

18-115. <u>Interruption of service</u>. The town will endeavor to furnish continuous water and sewer service, but does not guarantee to the customer any fixed pressure or continuous service. The town shall not be liable for any damages for any interruption of service whatsoever.

In connection with the operation, maintenance, repair, and extension of the municipal water and sewer systems, the water supply may be shut off without notice when necessary or desirable, and each customer must be prepared for such emergencies. The town shall not be liable for any damages from such interruption of service or for damages from the resumption of service without notice after any such interruption. (1985 Code, § 13-115)

- 18-116. <u>Water distribution installation restrictions</u>. The following restrictions shall apply to water distribution installations within the Town of Signal Mountain water service area:
- (1) <u>Water service line definition</u>. For the purpose of this section, a "water service line" shall be the water pipe which begins at the water meter and extends to a point within the foundation walls of the house, at which point a pressure regulator is placed.
- (2) Water service line material All water service line material shall be either type "L" or "K" copper pipe or Blue PEX (grade "A" polyethylene with ultraviolet protection) with brass fittings. PEX service lines should be installed with a "tracer wire" to facilitate future water line location/detection. All service line must be no smaller than three quarter inch (3/4") in size, must be installed at a minimum depth of twenty four inches (24") and must be covered with clean soil or other suitable material.
- (3) Water service control. Each building shall have a separate water control valve, independent of the meter valve. Each apartment or store in a building shall have a separate independent control valve or individual fixture control valve controlling all the fixtures in such apartment or store. Main control valve(s) shall be located at or near the foundation line and shall be a minimum of three quarter-inch (3/4"), full flow gate or ball.
- (4) <u>Drain valve</u>. Drain valve shall be installed on both hot and cold water distribution system at the lowest point for the purpose of winterization or repair of system. Drain valve shall be gate or ball and the same size as the line it drains.
- (5) <u>Demand load</u>. The demand load in the building water service line shall be based on the number and kind of fixtures installed and the probable simultaneous use of these fixtures. If flushometers or other devices requiring a high rate of water flow are used, the water service pipe shall be sized to supply this flow.
- (6) <u>Sizing the water distribution system of a building</u>. The sizing of the water distribution system shall conform to good engineering practice.
- (7) <u>Size of fixture supply</u>. The minimum size of a fixture supply pipe from the rise or main to the wall opening shall be as follows:

Type of Fixture or Device	Pipe Size (inches)
Bath tubs	1/2
Hot tubs	3/4
Combination sink	1/2
Drinking fountain	3/8
Dishwater	1/2
Hot water heaters (hot & cold)	3/4 minimum
Washing machine	1/2
Laundry tub	1/2
Kitchen sinks, residential	1/2
Lavatory	1/2
Shower (single head)	1/2
Urinal (direct flush valve)	3/4
Water closet (tank type)	1/2
Water closet (flush valve type)	1
Hose bibbs	1/2

- * A group of not more than two (2) fixtures shall be connected to a half-inch (1/2") cold water supply.
- ** Commercial, business and office district fixtures or devices and pipe size must be based on the required demand.
- (8) <u>Hazard and noise</u>. Water pipe installations shall be adequately protected from water hammer by use of air chambers or other approved devices. Air chambers shall be installed in such manner that will permit draining without disconnecting fixture supply. Air chambers shall be not less than a 12-inch length of pipe one size larger than the pipe it serves or 18 inches on same size pipe serving the fixture.
- (9) <u>Water regulator and strainer</u>. All water services shall have an approved water pressure regulator with a strainer conforming to A.S.S.E. 1003. (Ord. #87-6, May 1987, as amended by Ord. #95-16, § 1, Dec. 1995 and Ord. #2015-06, Sept. 2016)

CHAPTER 2

PUBLIC SEWER USE AND COST RECOVERY SYSTEM

SECTION

- 18-201. Purpose and policy.
- 18-202. Definitions.
- 18-203. Connection to public sewers.
- 18-204. Private domestic wastewater disposal.
- 18-205. Regulation of holding tank waste disposal.
- 18-206. Application for domestic wastewater and industrial wastewater permit.
- 18-207. Discharge regulations.
- 18-208. Industrial user monitoring, inspection reports, records access, and safety.
- 18-209. Enforcement and abatement.
- 18-210. Penalty; costs.
- 18-211. Fees and billing.
- 18-201. <u>Purpose and policy</u>. This chapter sets forth uniform requirements for the disposal of wastewater in the service area of the Town of Signal Mountain, Tennessee, wastewater treatment system. The objectives of this chapter are:
 - (1) To protect the public health.
- (2) To provide problem free wastewater collection and treatment service.
- (3) To prevent the introduction of pollutants into the municipal wastewater treatment system, which will interfere with the system operation, will cause the town's discharge to violate its National Pollutant Discharge Elimination System (NPDES) permit or other applicable state requirements, or will cause physical damage to the wastewater treatment facilities.
- (4) To provide for full and equitable distribution of the cost of the wastewater treatment system.
- (5) To enable the Town of Signal Mountain to comply with the provisions of the Federal Clean Water Act, the General Treatment Regulations (40 CFR Part 403), and other applicable federal and state laws and regulations.
- (6) To improve the opportunity to recycle and reclaim wastewaters and sludges from the wastewater treatment system.

In meeting these objectives, the chapter provides that all persons in the service area in the Town of Signal Mountain must have adequate wastewater treatment, either in the form of a connection to the municipal wastewater system or where the system is not available, an appropriate private disposal system. The chapter also provides for the issuance of permits to system users, for the regulations of wastewater discharge volume and characteristics, for

monitoring enforcement activities; and for setting of fees for the full and equitable distribution of costs resulting from the operation, maintenance, and capital recovery of the wastewater treatment system and from other activities required by the enforcement and administrative program established herein.

This chapter shall apply to the Town of Signal Mountain, Tennessee, and to persons outside the town who are, by contract or agreement with the town users of the municipal wastewater treatment system. Except as otherwise provided herein, the director of public utilities of the Town of Signal Mountain shall administer, implement, and enforce the provisions of this chapter. (1985 Code, § 13-201)

- 18-202. <u>Definitions</u>. Unless the context specifically indicates otherwise, the following terms and phrases as used in this chapter, shall have the meanings hereinafter designated:
- (1) "Act" or "The Act". The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. 1251, et. seq.
- (2) "Approval authority." The director in an NPDES state with an approved state pretreatment program and the administrator of the EPA in a non-NPDES state or NPDES state without an approved state pretreatment program.
- (3) "Authorized representative of industrial user." An authorized representative of an industrial user may be:
 - (a) A principal executive officer of at least the level of vice-president, if the industrial user is a corporation.
 - (b) A general partner or proprietor if the industrial user is a partnership or proprietorship, respectively.
 - (c) A duly authorized representative of the individual designated above if such representative is responsible for the overall operation of the facilities from which the indirect discharge originates.
- (4) "Biochemical oxygen demand (BOD)." The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure, five (5) days at 20 centigrade expressed in terms of weight and concentration (milligrams per liter (mg/l)).
- (5) "Building sewer." A sewer conveying wastewater from the premises of a user to the POTW.
- (6) "Categorical standards." National categorical pretreatment standards or pretreatment standard.
- (7) "Compatible pollutant." Shall mean BOD, suspended solids, pH, and fecal coliform bacteria, and such additional pollutants as are now or may be in the future specified and controlled in this town's NPDES permit for its wastewater treatment works where sewer works have been designed and used to reduce or remove such pollutants.

- (8) "Cooling water." The water discharged from any use such as air conditioning, cooling or refrigeration, or to which the only pollutant added is lead.
- (9) "Control authority." The term "control authority" shall refer to the "approval authority" defined hereinabove; or the director of public utilities if the town has an approved pretreatment program under the provisions of 40 CFR, 403.11.
- (10) "Customer." Means any individual, partnership, corporation, association, or group who receives sewer service from the town under either an express or implied contract requiring payment to the town for such service.
- (11) "Direct discharge." The discharge of treated or untreated wastewater directly to the waters of the State of Tennessee.
- (12) "Director." The person designated by the town to supervise the operation of the publicly owned treatment works (POTW), and who is charged with certain duties and responsibilities by this chapter, or his duly authorized representative.
- (13) "Domestic wastewater." Wastewater that is generated by a single family, apartment or other dwelling unit or dwelling unit equivalent containing sanitary facilities for the disposal of wastewater and used for residential purposes only.
- (14) "Environmental Protection Agency, or EPA." The U.S. Environmental Protection Agency, or where appropriate the term may also be used as a designation for the administrator or other duly authorized official of the said agency.
- (15) "Garbage." Shall mean solid wastes from the domestic and commercial preparation, cooking, and dispensing of food, and from the handling, storage, and sale of produce.
- (16) "Grab sample." A sample which is taken from a waste stream on a one-time basis with no regard to the flow in the waste stream and without consideration of time.
- (17) "Holding tank waste." Any waste from holding tanks such as vessels, chemical toilets, campers, trailers, septic tanks, and vaccum-pump tank trucks.
- (18) "Incompatible pollutant." Shall mean any pollutant which is not a "compatible pollutant" as defined in this section.
- (19) "Indirect discharge." The discharge or the introduction of nondomestic pollutants from any source regulated under section 307(b) or (c) of the act, (33 U.S.C. 1317), into the POTW (including holding tank waste discharged into the system).
- (20) "Industrial user." A source of indirect discharge which does not constitute a "discharge of pollutants" under regulations issued pursuant to section 402, of the Act (33 U.S.C. 1342).
- (21) "Interference." The inhibition or disruption of the municipal wastewater treatment process or operations which contributes to a violation of

any requirement of the town's NPDES permit. The term includes prevention of sewage sludge use or disposal by the POTW in accordance with 405 of the Act, (33. U.S.C. 1345) or any criteria, guidelines, or regulations developed pursuant to the solid waste disposal act (SWDA), the clean air act, the toxic substances control act, or more stringent state criteria (including those contained in any state sludge management plan prepared pursuant to Title IV of SWDA) applicable to the method of disposal or use employed by the municipal wastewater treatment system.

- (22) "National categorical pretreatment standard or pretreatment standard." Any regulation containing pollutant discharge limits promulgated by the EPA in accordance with section 307(b) and (C) of the Act (33 U.S.C. 1347) which applies to a specific category of industrial users.
- (23) "NDPES (Natural pollutant discharge elimination system)." Shall mean the program for issuing, conditioning, and denying permits for the discharge of pollutants from point sources into navigable waters, the contiguous zone, and the oceans pursuant to section 402 of the federal water pollution control act as amended.
- (24) "New source." Any source, the construction of which is commenced after the publication of proposed regulations prescribing a section 307 (c) (33 U.S.C. 1317) categorical pretreatment standard which will be applicable to such source, if such standard is thereafter promulgated within 120 days of proposal in the Federal Register. Where the standard is promulgated later than 120 days after proposal, a new source means any source, the construction of which is commenced after the date of promulgation of the standard.
- (25) "Person." Any individual, partnership, copartnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity or any other legal entity, or their legal representatives, agents or assigns. The masculine gender shall include the feminine, the singular shall include the plural where indicated by the context.
- (26) "pH." The logarithm (base 10) of the reciprocal of the concentration of hydrogen ions expressed in grams per liter of solution.
- (27) "Pollution." The man-made or man-induced alteration of the chemical, physical, biological, and radiological integrity of water.
- (28) "Pollutant." Any dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical substances, biological materials, radioactive materials, heat, wrecked or discharged equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste discharged into water.
- (29) "Pretreatment or treatment." The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater to a less harmful state prior to or in lieu of discharging or otherwise introducing such pollutants into a POTW. The reduction or alteration can be obtained by physical, chemical, or biological

processes, or process changes other means, except as prohibited by 40 CFR section 40.36(d).

- (30) "Pretreatment requirements." Any substantive or procedural requirement related to pretreatment, other than a national pretreatment standard imposed on an industrial user.
- (31) "Publicly owned treatment works (POTW)." A treatment works as defined by section 212 of the Act, (33 U.S.C. 1292) which is owned in this instance by the town. This definition includes any sewers that convey wastewater to the POTW treatment plants, but does not include pipes, sewers or other conveyances not connected to a facility providing treatment. For the purposes of this chapter, "POTW" shall also include any sewers that convey wastewaters to the POTW from persons outside the Town of Signal Mountain who are, by contract or agreement with the town users of the town's POTW.
- (32) "POTW Treatment Plant." That portion of the POTW designed to provide treatment to wastewater.
 - (33) "Shall" is mandatory; "May" is permissive.
- (34) "Slug." Shall mean any discharge of water, sewage, or industrial waste which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than fifteen (15) minutes more than five (5) times the average twenty-four (24) hour concentrations of flows during normal operation of any discharge of whatever duration that causes the sewer to overflow or back up in an objectionable way or any discharge of whatever duration that interferes with the proper operation of the wastewater treatment facilities or pumping stations.
 - (35) "State." Means the State of Tennessee.
- (36) "Standard industrial classification (SIC)." A classification pursuant to the standard industrial classification manual issued by the Executive Office of the President, Office of Management and Budget, 1972.
- (37) "Storm water." Any flow occurring during or following any form of natural precipitation and resulting therefrom.
- (38) "Storm sewer or storm drain." Shall mean a pipe or conduit which carries storm and surface waters and drainage, but excludes sewage and industrial wastes; it may, however, carry cooling waters and unpolluted waters, upon approval of the director of public utilities.
- (39) "Suspended solids." The total suspended matter that floats on the surface of, or is suspended in, water, wastewater or other liquids, and which is removable by laboratory filtering.
- (40) "Toxic pollutant." Any pollutant or combination of pollutants listed as toxic in regulations promulgated by the administrator of the Environmental Protection Agency under the provision of CWA (309(a)) or other acts.
- (41) "Town." The Town of Signal Mountain or the Town Council, Town of Signal Mountain, Tennessee.
- (42) "Twenty-four (24) hour flow proportional composite sample." A sample consisting of several sample portions collected during a 24-hour period

in which the portions of a sample are proportioned to the flow and combined to form a representative sample.

- (43) "User." Any person who contributes, causes or permits the contribution of wastewater into the town's POTW.
- (44) "Wastewater." The liquid and water-carried industrial or domestic wastes from dwellings, commercial buildings, industrial facilities, and institutions, whether treated or untreated, which is contributed into or permitted to enter the POTW.
 - (45) "Wastewater treatment systems." Defined the same as POTW.
- (46) "Waters of the state." All streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, acquifers, irrigation systems, drainage systems and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through or border upon the state or any portion thereof. (1985 Code, § 13-202)
- 18-203. <u>Connection to public sewers</u>. (1) Requirements for proper wastewater disposal.
 - (a) It shall be unlawful for any person to place, deposit, or permit to be deposited in any unsanitary manner on public or private property within the service area of the Town of Signal Mountain, any human or animal excrement, garbage, or other objectionable waste.
 - (b) It shall be unlawful to discharge to any waters of the state within the service area of the Town of Signal Mountain any sewage or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of this chapter.
 - (c) Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of sewage.
 - (d) Except as provided in paragraph 18-203(1)(e) below, the owner of all houses, buildings, or properties used for human occupancy, employment, recreation, or other purposes situated within the service area and abutting on any street, alley, or right-of-way in which there is now located or may in the future be located a public sanitary sewer in the service area, is hereby required at his expense to install suitable toilet facilities therein, and to connect such facilities directly with the proper public sewer in accordance with the provisions of this chapter, within sixty (60) days after date of official notice to do so, provided that said public sewer is within three hundred (300) feet of the building drain as defined herein.
 - (e) The owner of a manufacturing facility may discharge wastewater into the waters of the state provided that he obtains a NPDES permit and meets all requirements of the federal clean water act,

the NPDES permit, and any other applicable local, state, or federal statutes and regulations.

- (f) Where a public sanitary sewer is not available under the provisions of paragraph 18-203(1)(d), the building sewer shall be connected to a private sewage disposal system complying with the provisions of section 18-206 of this chapter.
- (2) <u>Physical connection to public sewer</u>. (a) No unauthorized person shall uncover, make any connections with or opening into, use, alter, or disturb any public sewer or appurtenances thereof without first obtaining a written permit from the director of public utilities as required by section 18-206 of this chapter.
- (b) All costs and expenses incident to the installation, connection, and inspection of the building sewer shall be borne by the owner. The owner shall indemnify the town from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.
- (c) A separate and independent building sewer shall be provided for every building; except where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard, or driveway, the building sewer from the front building may be extended to the rear buildings and the whole considered as one building sewer.
- (d) Old building sewers may be used in connection with new buildings only when they are found, on examination and tested by the director of public utilities to meet all requirements of this chapter. All others must be sealed to the specifications of the director.
 - (e) Building sewers shall conform to the following requirements:
 - (1) The minimum size of a building sewer shall be four (4) inches.
 - (2) The minimum depth of a building sewer shall be eighteen (18) inches.
 - (3) Four (4) inch building sewers shall be laid on a grade no less than 1/8 inch per foot. Larger building sewers shall be laid on a grade that will produce a velocity when flowing full at least 2.0 feet per second.
 - (4) Slope and alignment of all building sewers shall be neat and regular.
 - (5) Building sewers shall be constructed only of:
 - (a) Concrete or clay sewer pipe using rubber or neoprene compression joints of approved type.
 - (b) Cast iron soil pipe with leaded or compression joints.
 - (c) Polyvinyl chloride pipe with solvent welded or with rubber compression joints.

- (d) ABS composite sewer pipe with solvent welded or rubber compression joints of approved type.
- (e) Such other materials of equal or superior quality as may be approved by the director. Under no circumstances will cement mortar joints be acceptable.
- (6) A cleanout shall be located three (3) feet outside of the building, one as it taps on to the utility lateral and one at each change of direction of the building sewer which is greater than 45 degrees. Additional cleanouts shall be placed not more than seventy-five (75) feet apart in horizontal building sewers of four (4) inch nominal diameter and not more than one hundred (100) feet apart for larger pipes. Cleanouts shall be extended to or above the finished grade level directly above the place where the cleanout is installed. A "Y" (wye) and 1/8 bend shall be used for the cleanout base. Cleanouts shall not be smaller than four (4) inches on a four (4) inch pipe.
- (7) Connections of building sewers to the public sewer system shall be made the appropriate existing wye or tee branch using compression type couplings or collar type rubber joint with corrosion resisting or stainless steel bands. Where existing wye or tee branches are not available, connections of building services shall be made by either removing a length of pipe and replacing it with a wye or tee fitting or cutting a clean opening in the existing public sewer and installing a tee-saddle or tee-insert of a type approved by the director. All such connections shall be made gastight and watertight.
- (8) The building sewer may be brought into the building below the basement floor when gravity flow from the building to the sanitary sewer is at a grade of 1/8-inch per foot or more if possible. In cases where basement or floor levels are lower than the ground elevation at the point of connection to the sewer, adequate precautions by installation of check valves or other backflow prevention devices to protect against flooding shall be provided by the owner. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by an approved means and discharged to the building sewer at the expense of the owner.

All sewer grinder pumps, to elevate sewage, shall be placed, or located, outside, and away from, any building or structure.

(9) The methods to be used in excavating, placing of pipe, jointing, testing, backfilling the trench, or other activities in the construction of a building sewer which have not been described above shall conform to the requirement of the building and

plumbing code or other applicable rules and regulations of the town or to the procedures set forth in the appropriate specifications of the ASTM and Water Pollution Control Federal Manual of Practice No. 9. Any deviation from the prescribed procedures and materials must be approved by the director before installation.

- (10) An installed building sewer shall be gastight and watertight.
- (f) All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways, and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the town.
- (g) No person shall make connection of roof downspouts, exterior foundation drains, areaway drains, basement drains, or other sources of surface runoff or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer.
- (3) <u>Inspection of connections</u>. (a) The sewer connection and all building sewers from the building to the public sewer main line shall be inspected by the town building inspector and the inspector for the POTW before the underground portion is covered by the director or his authorized representative. No final plat approval for any subdivision shall be granted by the town planning commission for any subdivision until the connection to the public sewer main has been inspected and approved by the town building inspector and the inspector for the POTW.
- (b) The applicant for discharge shall notify the director and the town manager when the building sewer is ready for inspection and connection to the public sewer. The connection shall be made under the supervision of the director or his representative and the town building inspector or other designee of the town manager.
- (4) <u>Maintenance of building sewers</u>. Each individual property owner or user of the POTW shall be entirely responsible for the maintenance of the building sewer located on private property. This maintenance will include repair or replacement of the service line to the public sewer main line as deemed necessary by the director of the POTW or the town manager to meet the specifications of the town. (1985 Code, § 13-203, as amended by ord. No. 92-15, as amended by Ord. #2007-8, May 2007)

18-204. Private domestic wastewater disposal.

(1) <u>Availability</u>. (a) Where a public sanitary sewer is not available under the provisions of section 18-202(1)(d), the building sewer shall be connected to a private wastewater disposal system complying with the provisions of this section.

- (b) Any residence, office, recreational facility, or other establishment used for human occupancy where the building drain in below the elevation to obtain a grade equivalent to 1/8-inch per foot in the building sewer but is otherwise accessible to a public sewer as provided in section 18-203, the owner shall provide a private sewage pumping station as provided in section 18-203(2)(e)(8).
- (c) Where a public sewer becomes available, the building sewer shall be connected to said sewer within sixty (60) days after date of official notice to do so.
- (2) Requirements. (a) A private domestic wastewater disposal system may not be constructed within the service area unless and until a certificate is obtained from the director stating that a public sewer is not accessible to the property and no such sewer is proposed for construction in the immediate future. No certificate shall be issued for any private domestic wastewater disposal system employing subsurface soil absorption facilities where the area of the lot is less than that specified by the Hamilton County Health Department.
- (b) Before commencement of construction of a private sewage disposal system, the owner shall first obtain written permission from the Hamilton County Health Department. The owner shall supply any plans, specifications, and other information as are deemed necessary by the Hamilton County Health Department.
- (c) A private sewage disposal system shall not be placed in operation until the installation is completed to the satisfaction of the Hamilton County Health Department. They shall be allowed to inspect the work at any stage of construction and, in any event, the owner shall notify the Hamilton County Health Department when the work is ready for final inspection, and before any underground portions are covered. The inspection shall be made within a reasonable period of time after the receipt of notice by the Hamilton County Health Department.
- (d) The type, capacity, location and layout of a private sewage disposal system shall comply with all recommendations of the Department of Public Health of the State of Tennessee and the Hamilton County Health Department. No septic tank or cesspool shall be permitted to discharge to any natural outlet.
- (e) The owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times, at no expense to the town.
- (f) No statement contained in this chapter shall be construed to interfere with any additional requirements that may be imposed by the Hamilton County Health Department. (1985 Code, § 13-204)
- 18-205. <u>Regulation of holding tank waste disposal</u>. (1) <u>Permit</u>. No person, firm, association or corporation shall clean out, drain, or flush any septic

tank or any other type of wastewater or excreta disposal system, unless such person, firm, association, or corporation obtains a permit from the director to perform such acts or services. Any person, firm, association, or corporation desiring a permit to perform such services shall file an application on the prescribed form. Upon any such application, said permit shall be issued by the director when the conditions of this chapter have been met and providing the director is satisfied the applicant has adequate and proper equipment to perform the services contemplated in a safe and competent manner.

- (2) <u>Fees</u>. For each permit issued under the provisions of this chapter, an annual service charge therefore shall be paid to the town to be set as specified in section 18-211. Any such permit granted shall be for one full fiscal year or fraction of the fiscal year, and shall continue in full force and effect from the time issued until the ending of the fiscal year unless sooner revoked, and shall be nontransferable.
- (3) <u>Designated disposal location</u>. The director shall designate approved locations for the emptying of all equipment used in the performance of the services rendered under the permit herein provided for, and it shall be a violation hereof for any person, firm, association or corporation to empty or clean such equipment at any place other than a place so designated.
- (4) Revocation of permit. Failure to comply with all the provisions of this chapter shall be sufficient cause for the revocation of such permit by the director. The possession within the service area by any person of any motor vehicle equipped with a body type and accessories of a nature and design capable of serving a septic tank or wastewater or excreta disposal system cleaning unit shall be prima facie evidence that such person is engaged in the business of cleaning, draining, or flushing septic tanks or other wastewater or excreta disposal systems within the service area of the Town of Signal Mountain. (1985 Code, § 13-205)

18-206. Application for domestic wastewater discharge and industrial wastewater permit. (1) Applications for discharge of domestic wastewater. All users or prospective users which generate domestic wastewater shall make application to the director for written authorization to discharge to the town's wastewater treatment system. Applications shall be required from all new dischargers as well as for any existing discharger desiring additional service. Connection to the municipal sewer shall not be made until the application is received and approved by the director, the building sewer is installed in accordance with section 18-203 of this chapter and an inspection has been performed by the director or his representative.

The receipt by the town of a prospective customer's application for service shall not obligate the town to render the service. If the service is applied for cannot be supplied in accordance with this chapter, and the town's rules and regulations and general practice, the connection charge will be refunded in full, and there shall be no liability of the town to the applicant for such service,

except that conditional waivers for additional services may be granted by the director for interim periods if compliance may be assured within a reasonable period of time.

- (2) <u>Industrial wastewater discharge permits</u>. (a) <u>General requirements</u>. All industrial users proposing to connect to or to contribute to the POTW shall obtain a wastewater discharge permit before connecting to or contributing to the POTW. All existing industrial users connected to or contributing to the POTW within 180 days after the effective date of this chapter.
- (b) <u>Applications</u>. Applications for wastewater discharge permits shall be required as follows:
 - (1) Users required to obtain a wastewater discharge permit shall complete and file with the director application in the form prescribed by the director, and accompanied by the appropriate fee. Existing users shall apply for a wastewater contribution permit within 60 days after the effective date of this chapter, and proposed new users shall apply at least 90 days prior to connecting to or contributing to the POTW.
 - (2) The application shall be in the prescribed form of the town and shall include, but not be limited to the following information: name, address and SIC number of applicant; wastewater volume; wastewater constituents and characteristics; discharge variations daily, monthly, seasonal and 30 minute peaks; a description of all toxic materials handled on the premises; site plans, floor plans, mechanical and plumbing plans and details showing all sewers and appurtenances by size, location and elevation; a description of existing and proposed pretreatment and/or equalization facilities and any other information deemed necessary by the director.
 - (3) Any user who elects or is required to construct new or additional facilities for pretreatment shall as part of the application for wastewater discharge permit submit plans, specifications and other pertinent information relative to the proposed construction to the director for approval. Plans and specifications submitted for approval must bear the seal of a professional engineer registered to practice engineering in the state of Tennessee. A wastewater discharge permit shall not be issued until such plans and specifications are approved. Approval of such plans and specifications shall in no way relieve the user from the responsibility of modifying the facility as necessary to produce an effluent acceptable to the town under the provisions of this chapter.
 - (4) If additional pretreatment and/or O&M will be required to meet the pretreatment standards, the application shall

include the shortest schedule by which the user will provide such additional pretreatment. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. For the purpose of this paragraph, "pretreatment standard" shall include either a national pretreatment standard imposed by section 18-207 of this chapter.

- (5) The town will evaluate the data furnished by the user and may require additional information. After evaluation and acceptance of the date furnished, the town may issue a wastewater discharge permit subject to terms and conditions provided herein.
- (6) The receipt by the town of a prospective customer's application for wastewater discharge permit shall not obligate the town to render the wastewater collection and treatment service. If the service applied for cannot be supplied in accordance with this chapter or the town's rules and regulations and general practice, the application shall be rejected and there shall be no liability of the town to the applicant of such service.
- (7) The director will act only on applications containing all the information required in this section. Persons who have filed incomplete applications will be notified by the director that the application is deficient and the nature of such deficiency and will be given thirty (30) days to correct the deficiency. If the deficiency is not corrected within thirty (30) days or within such extended period as allowed by the director, the director shall submit the application to the commissioner of public utilities and the mayor with a recommendation that it be denied and notify the applicant in writing of such action.
- (c) <u>Permit conditions</u>. Wastewater discharge permits shall be expressly subject to all provisions of this chapter and all other applicable regulations, user charges and fees established by the town. Permits may contain the following:
 - (1) The unit charge or schedule of user charges and fees for the wastewater to be discharged to a community sewer.
 - (2) Limits on the average and maximum wastewater constituents and characteristics.
 - (3) Limits on average and maximum rate and time of discharge or requirements and equalization.
 - (4) Requirements for installation and maintenance of inspections and sampling facilities.
 - (5) Specifications for monitoring programs which may include sampling locations, frequency of sampling, number, types, and standards for tests and reporting schedule.
 - (6) Compliance schedule.

- (7) Requirements for submission of technical reports or discharge reports.
- (8) Requirements for maintaining and retaining plant records relating to wastewater discharge as specified by the town, and affording town access thereto.
- (9) Requirements for notification of the town of any new introduction of wastewater constituents or any substantial change in the volume or character of the wastewater constituents being introduced into the wastewater treatment system.
 - (10) Requirements for notification of slug discharged.
- (11) Other conditions as deemed appropriate by the town to insure compliance with this chapter.
- (d) Permit modifications. Within nine months of the promulgation of a national categorical pretreatment standard, the wastewater discharge permit of users subject to such standards shall be revised to require compliance with such standard within the time frame prescribed by such standard. A user with an existing wastewater discharge permit shall submit to the director within 180 days after the promulgation of an applicable federal categorical pretreatment standard the information required by section 18-206(2)(b)(2) and (3). The terms and conditions of the permit may be subject to modification by the director during the term of the permit as limitations or requirements are modified or other just cause exists. The user shall be informed of any proposed changes in this permit at least 30 days prior to the effective date of change. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance.
- (e) <u>Permits duration</u>. Permits shall be issued for a specified time period, not to exceed five (5) years. A permit may be issued for a period less than a year or may be stated to expire on a specific date. The user shall apply for permit reissuance a minimum of 180 days prior to the expiration of the user's existing permit.
- (f) <u>Permit transfer</u>. Wastewater discharge permits are issued to a specific user for a specific operation. A wastewater discharge permit shall not be reassigned or transferred or sold to a new owner, new user, different premises, or a new or changed operation without the approval of the town. Any succeeding owner or user shall also comply with the terms and conditions of the existing permit.
- (g) <u>Revocation of permit</u>. Any permit issued under the provisions of this chapter is subject to be modified suspended, or revoked, in whole or in part during its term for cause including, but not limited to, the following:
 - (1) Violation of any terms or conditions of the wastewater discharge permit or other applicable federal, state, or local law or regulation.

- (2) Obtaining a permit by misrepresentation or failure to disclose fully all relevant facts.
- (3) A change in any condition that requires either a temporary or permanent reduction or elimination of the permitted discharge.
- (4) Intentional failure of a user to accurately report the discharge constituents and characteristics or to report significant changes in plant operations or wastewater characteristics.
- (3) <u>Confidential information</u>. All information and data on a user obtained from reports, questionnaire, permit application, permits and monitoring programs and from inspections shall be available to the public or any other governmental agency without restriction unless the user specifically requests and is able to demonstrate to the satisfaction of the director that the release of such information would divulge information, processes, or methods of production entitled to protection as trade secrets of the user.

When requested by the person furnishing the report, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public, but shall be made available to governmental agencies for use related to this chapter or the town's or user's NPDES permit. Provided, however, that such portion of a report shall be available for use by the state or any state agency in judicial review or enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics will not be recognized as confidential information.

Information accepted by the director as confidential shall not be transmitted to any governmental agency or to the general public by the director until and unless prior and adequate notification is given to the user. (1985 Code, § 13-206)

- 18-207. <u>Discharge regulations</u>. (1) General discharge prohibitions. No user shall contribute or cause to be contributed, directly or indirectly, any pollutant or wastewater which will interfere with the operation and performance of the POTW. These general prohibitions apply to all such users of a POTW whether or not the user is subject to national categorical pretreatment standards or any other national, state, or local pretreatment standards or requirements. A user may not contribute the following substances to any POTW:
 - (a) Any liquids, solids, or gases which by reason of their nature or quantity are, or may be, sufficient either alone or by interaction with other substances to cause fire or explosion or be injurious in any other way to the POTW or to the operation of the POTW. At no time, shall two successive readings on an explosion hazard meter, at the point of discharge into the system (or at any point in the system) be more than five percent (5%) nor any single reading over twenty percent (20%) of the

Lower Explosive Limit (LEL) of the meter. Prohibited materials include, but are not limited to, gasoline, kerosene, naphtha, benzene, toluene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, bromate, carbides, hydrides, and sulfides or any other substances which the town, the state or EPA has notified the user is a fire hazard or a hazard to the system.

- (b) Solid or viscous substances which may cause obstruction to the flow in a sewer or other interference with the operation of the wastewater treatment facilities such as, but not limited to: grease, garbage with particles greater than one-half inch (1/2) in any dimension, paunch manure, bones, hair, hides or fleshings, entrails, whole blood, feathers, ashes, cinders, sand, spent lime, stone or marble dust, metal, glass, straw, shavings, grass clippings, rags, spent grains, spent hops, waste paper, wood, plastics, gas, tar, asphalt residues, residues from refining, or processing of fuel or lubricating oil, mud, or glass grindings or polishing wastes.
- (c) Any wastewater having a pH less than 5.0 higher than 9.5 or wastewater having any other corrosive property capable of causing damage or hazard to structures, equipment, and/or personnel of the POTW.
- (d) Any wastewater containing any toxic pollutant, chemical elements, or compounds in sufficient quantity, either singly or by interaction with other pollutants, to injure or interfere with any wastewater treatment process, constitute a hazard to humans or animals, create a toxic effect in the receiving waters of the POTW, or to exceed the limitation set forth in a categorical pretreatment standard. A toxic pollutant shall include but not be limited to any pollutant identified pursuant to section 307(a) of the act.
- (e) Any noxious or malodorous liquids, gases, or solids which either singly or by interaction with other wastes are sufficient to create a public nuisance or hazard to life or are sufficient to prevent entry into the sewers for maintenance and repair.
- (f) Any substance which may cause the POTW's effluent or any other product of the POTW such as residues, sludges, or scums, to be unsuitable for reclamation and reuse or to interfere with the reclamation process. In no case, shall a substance discharged to the POTW cause the POTW to be in a non-compliance with sludge use or disposal criteria, guidelines or regulations developed under Section 405 of the Act; any criteria, guidelines, or regulations affecting sludge use or disposal developed pursuant to the solid waste disposal act, the clean air act, the toxic substances control act, or state criteria applicable to the sludge management method being used.
- (g) Any substance which will cause the POTW to violate its NPDES permit or the receiving water quality standards.

- (h) Any wastewater causing discoloration of the wastewater treatment plant effluent to the extent that the receiving stream water quality requirements would be violated, such as, but not limited to, dye wastes and vegetable tanning solutions.
- (i) Any wastewater having a temperature which will inhibit biological activity in the POTW treatment plant resulting in interference, but in no case wastewater with a temperature at the introduction into the POTW which exceeds 40° c (104° F).
- (j) Any pollutants, including oxygen demanding pollutants (B.O.D., etc.) released at a flow rate and/or pollutant concentration which a user knows or has reason to know will cause interference to the POTW.
- (k) Any waters or wastes causing an unusual volume of flow or concentration of waste constituting "sludge" as defined herein.
- (l) Any wastewater containing any radioactive wastes or isotopes of such halflife or concentration as may exceed limits established by the director in compliance with applicable state or federal regulations.
- (m) Any wastewater which causes a hazard to human life or creates a public nuisance.
- (n) Any waters or wastes containing fats, wax, grease, or oil, whether emulsified or not, in excess of one hundred (100) mg/l or containing substances which may solidify or become viscous at a temperature between thirty-two (32) or one hundred fifty degrees (150°) F (0 and 65°C).
- (o) Any stormwater, surface water, ground water, roof runoff, subsurface drainage, uncontaminated cooling water, or unpolluted industrial process waters to any sanitary sewer. Stormwater and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as storm sewers or to a natural outlet approved by the director and the Tennessee Department of Public Health, to a storm sewer or natural outlet.
- (2) <u>Restrictions on wastewater strength</u>. No person or user shall discharge wastewater which exceeds the following set of standards (Table A User Discharge Restrictions) unless an exception is permitted as provided in this chapter. Dilution of any wastewater discharge for the purpose of satisfying these requirements shall be considered in violation of this chapter.

Table A - User Discharge Restrictions

D. II.	Daily Average* Maxim		neous Maximum
<u>Pollutant</u>	Concentration (mg/	<u>.) Concen</u>	<u>tration (mg/l)</u>
Antimony	5.0	8.0	
Arsenic			
Cadmium			
Chromium (total)			
Copper			
Cyanide			
Lead			
Mercury			
Nickel			
Pesticides &			
Herbicides			
Phenols			
Selenium			
Silver			
Surfactants, as M	BAS		
Zinc	3.0	5.0	

^{*} Based on 24-hour flow proportional composite samples.

(3) Protection of treatment plant influent. The director shall monitor the treatment works influent for each parameter in the following table. (Table B - Plant Protection Criteria) industrial users shall be subject to reporting and monitoring requirements regarding these parameters as set for in this chapter. In the event that the influent at the POTW reaches or exceeds the levels established by this table, the director shall initiate technical studies to determine the cause of the influent violation and shall recommend to the town the necessary remedial measures, including, but not limited to, recommending the establishment of new or revised pretreatment levels for these parameters. The director shall also recommend changes to any of these criteria in the event that: that POTW effluent standards are changed, there are changes in any applicable law or regulation affecting same, or changes as needed for more effective operation of the POTW.

Table B - Plant Protection Criteria

Maximum Concentration

	Concentration		
	mg/l (24-hour flow)	Maximum Daily	
	Proportional Composite	Concentrations	
<u>Parameter</u>	Sample	(mg/l)	
Aluminum			
dissolved (AL)	3.00	250	
Antimony (Sb)	0.50	1.0	
Arsenic (As)	0.06	1.0	
Barium (Ba)		5.0	
Boron (b)		500.0	
Cadmium (Cd)		0.01	
Chromium (Total)		3.0	
Cobalt (Co)		10.0	
Copper (Cu)		1.0	
Cyanide (CN)		0.05	
Fluoride (F) (Solible)		20.0	
Iron (Fe)		10.0	
Lead (Pb)		0.1	
Manganese (Mn)		10.0	
Mercury (hg)		0.5	
Nickel (Ni)		3.0	
Pesticides &			
Herbicides			
Phenols		1.0	
Selenium (e)		0.01	
Silver (Ag)		0.05	
Sulfide			
Zinc (Zn)	0.3	2.0	
Total Kjeldahl			
Nitrogen (TKN)	45.0		
Oil & Grease	50.0		
MBAS	5.00		
BOD	*		
COD	*		
Suspended Solids	*	40	

* Not to exceed the design capacity of treatment works. BDL = Below Detectable Limits.

- (4) <u>Federal categorical pretreatment standards</u>. Upon the promulgation of the federal categorical pretreatment standards for a particular industrial subcategory, the federal standard, if more stringent than limitations imposed under this chapter for sources in that subcategory, shall immediately supersede the limitations imposed under this chapter. The director shall notify all affected users of the applicable reporting requirements under 40 CFR, section 403.12.
- (5) Right to establish more restrictive criteria. No statement in this chapter is intended or may be construed to prohibit the director from establishing specific wastewater discharge criteria more restrictive where wastes are determined to be harmful or destructive to the facilities of the POTW or to create a public nuisance, or to cause the discharge of the POTW to violate effluent or stream quality standards, or to interfere with the use or handling of sludge, or to pass through the POTW resulting in a violation of the NPDES permit, or to exceed industrial pretreatment standards for discharge to municipal wastewater treatment systems as imposed or as may be imposed by the Tennessee Department of Public Health and/or the United States Environmental Protection Agency.
- (6) Special agreements. Nothing in this section shall be construed so as to prevent any special agreement or arrangement between the town and any user of the wastewater treatment system whereby wastewater of unusual strength of character is accepted into the system and specially treated subject to any payments or user charges as may be applicable. The making of such special agreements or arrangements between the town and the user shall be strictly limited to the capability of the POTW to handle such wastes without interfering with unit operations or sludge use and handling or allowing the pass through of pollutants which would result in a violation of the NPDES permit. No special agreement or arrangement may be made without documentation by the industry of the use of good management practice in the reduction of wastewater volume and strength.
 - (7) Exceptions to discharge criteria. (a) Application for exception. Non-residential users of the POTW may apply for a temporary exception to the prohibited and restricted wastewater discharge criteria listed in section 18-207(1) and (2) of this chapter. Exceptions can be granted according to the following guidelines:

The director shall allow applications for temporary exceptions at any time. However, the director shall not accept an application if the applicant has submitted the same or substantially similar application within the preceding year and the same has been denied by the town.

All applications for an exception shall be in writing, and shall contain sufficient information for evaluation of each of the factors to be considered by the town in its review of the application.

(b) <u>Conditions</u>. All exceptions granted under this paragraph shall be temporary and subject to revocation at any time by the director upon reasonable notice.

The user requesting the exception must demonstrate to the superintendent that he is making a concentrated and serious effort to maintain high standards of operation control and housekeeping levels, etc., so that discharges to the POTW are being minimized. If negligence is found, permits will be subject to termination. The user requesting the exception must demonstrate that compliance with stated concentration and quantity standards is technically or economically infeasible and the discharge, if excepted, will not:

- (1) Interfere with the normal collection and operation of the wastewater treatment system.
- (2) Limit the sludge management alternatives available and increase the cost of providing adequate sludge management.
- (3) Pass through the POTW in quantities and/or concentrations that would cause the POTW to violate its NPDES permit.

The user must show that the exception, if granted, will not cause the discharger to violate its enforced federal pretreatment standards unless the exception is granted under the provisions of the applicable pretreatment regulations.

A surcharge shall be applied to any exception granted under this subsection. These surcharges shall be applied for that concentration of the pollutant for which the variance has been granted in excess of the concentration stipulated in this chapter based on the average daily flow of the user.

- (c) Review of the application by the director. All applications for an exception shall be reviewed by the director. If the application does not contain sufficient information for complete evaluation, the director shall notify the applicant of the deficiencies and request additional information. The applicant shall have thirty (30) days following notification by the director to correct such deficiencies. This thirty (30) day period may be extended by the town upon application and for just cause shown. Upon receipt of a complete application, the director shall evaluate same within thirty (30) days, shall submit his recommendations to the town council at the next regularly scheduled meeting.
- (d) <u>Review of application by the town</u>. The town shall review and evaluate all applications for exceptions and shall take into account the following factors:
 - (1) Whether or not the applicant is subject to a national pretreatment standard containing discharge limitations more stringent than those in section 18-207 and grant an exception only

if such exception may be granted within limitations of applicable federal regulations.

- (2) Whether or not the exception would apply to discharge of a substance classified as a toxic substance under regulations promulgated by the Environmental Protection Agency under the provisions of section 307(a) of the Act (33 U.S.C. 1317), and then grant an exception only if such exception may be granted within the limitations of applicable federal regulations.
- (3) Whether or not the granting of an exception would create conditions that would reduce the effectiveness of the treatment works taking into consideration the concentration of said pollutant in the treatment works' influent and the design capability of the treatment works.
- (4) The cost of pretreatment of other types of control techniques which would be necessary for the user to achieve effluent reduction, but prohibitive costs alone shall not be the basis for granting and exception.
- (5) The age of equipment and industrial facilities involved to the extent that such factors affect the quality or quantity of wastewater discharge.
- (6) The process employed by the user and process changes available which would affect the quality or quantity of wastewater discharge.
- (7) The engineering aspects of various types of pretreatment or other control techniques available to the user to improve the quality or quantity of wastewater discharge.
- Accidental discharge. (e) (1) Protection from accidental discharge. All industrial users shall provide such facilities and institute such procedures as are reasonably necessary to prevent or minimize the potential for accidental discharge into the POTW of waste regulated by this chapter from liquid or raw material storage areas, from truck and rail car loading and unloading areas, from implant transfer or processing and materials handling areas. and from dikes areas or holding ponds of any waste regulated by this chapter. The wastewater discharge permit of any user who has a history of significant leaks, spills, or other accidental discharge of waste regulated by this chapter shall be subject on a case-by-case basis to a special permit condition or requirement for the construction of facilities, establishment of procedures which will prevent or minimize the potential for such accidental discharge. Facilities to prevent accidental discharge of prohibited materials shall be provided and maintained at the user's expense. Detailed plans showing the facilities and operating procedures shall be submitted to the director before the facility is constructed.

The review and approval of such plans and operating procedures will in no way relieve the user from the responsibility of modifying the facility to provide the protection necessary to meet the requirements of this chapter.

(2) <u>Notification of accidental discharge</u>. Any person causing or suffering from any accidental discharge shall immediately notify the director (or his designated official) by telephone to enable countermeasures to be taken by the director to minimize damage to the POTW, the health and welfare of the public, and the environment.

This notification shall be followed, within five (5) days of the date of occurrence, by a detailed written statement describing the cause of the accidental discharge and the measures being taken to prevent future occurrence.

Such notification will not relieve the user of liability for any expense loss, or damage to the POTW, fish kills, or any other damage to person or property; nor shall such notification relieve the user of any fines, civil penalties, or other liability which may be imposed by this chapter or state or federal law.

(3) Notice to employees. A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees whom to call in the event of a dangerous discharge. Employers shall ensure that all employees who may cause or suffer such a dangerous discharge to occur are advised of the emergency notification procedure. (1985 Code, § 13-207)

18-208. <u>Industrial user monitoring, inspection reports, records access, and safety.</u> (1) <u>Monitoring facilities</u>. The installation of a monitoring facility shall be required for all industrial users having wastes which receive pretreatment, are otherwise altered or regulated before discharge, or are unusually strong and thereby subject to a surcharge. Monitoring facility shall be a manhole or other suitable facility approved by the director.

When, in the judgment of the director, there is a significant different in wastewater constituents and characteristics provided by different operations of a single user the director may require that separate monitoring facilities be installed for each separate source of discharge.

Monitoring facilities that are required to be installed shall be constructed and maintained at the user's expense. The purpose of the facility is to enable inspection, sampling and flow measurement of wastewater produced by the user. If sampling or metering equipment is also required by the director, it shall be provided and installed at the user's expense.

The monitoring facility will normally be required to be located on the user's premises outside of the building. The director may, however, when such a location would be impractical or cause undue hardship on the user, allow the

facility to be constructed in the public street right-of-way with the approval of the public agency having jurisdiction of that right-of-way and located so that it will not be obstructed by landscaping or parked vehicles.

There shall be ample room in or near such sampling manhole or facility to allow accurate sampling and preparation of sampling for analysis. The facility, sampling, and measuring equipment shall be maintained at all times in a safe and proper operating condition at the expense of the user.

Whether constructed on public or private property, the monitoring facilities shall be constructed in accordance with the director's requirements and all applicable local agency construction standards and specifications.

Construction must be completed within 180 days following written notification unless an extension is granted by the director.

- Inspection and sampling. The town shall inspect the facilities of any user to ascertain whether the purpose of this chapter is being met and all requirements are being complied with. Persons or occupants of premises where wastewater is created or discharged shall allow the town or their representative ready access at all reasonable times to all parts of the premises for the purpose of inspection, sampling, records examination or in the performance of any of their duties. The town, approval authority and EPA shall have the right to set up on the user's property such devices as are necessary to conduct sampling inspection, compliance monitoring and/or metering operations. Where a user has security measures in force which would require proper identification and clearance before entry into their premises, the user shall make necessary arrangements with their security guards so that upon presentation of suitable identification, personnel from the town, approval authority and EPA will be permitted to enter, without delay, for the purposes of performing their specific responsibility. The director or his representatives shall have no authority to inquire into any manufacturing process beyond that point having a direct bearing on the level and sources of discharge to the sewers, waterways, or facilities for waste treatment.
- (3) Compliance date report. Within 180 days following the date for final compliance with applicable pretreatment standards or, in the case of a new source, following commencement of the introduction of wastewater into the POTW, any user subject to pretreatment standards and requirements shall submit to the director a report indicating the nature and concentration of all pollutants in the discharge from the regulated process which are limited by pretreatment standards and requirements and the average and maximum daily flow for these process units in the user facility which are limited by such pretreatment standards or requirements. The report shall state whether the applicable pretreatment standards or requirements are being met on a consistent basis and, if not, what additional O&M and/or pretreatment is necessary to bring the user into compliance with the applicable pretreatment standards or requirements. This statement shall be signed by an authorized representative of the industrial user, and certified to by a qualified professional.

- Periodic compliance reports. **(4)** (a) Any user subject to a pretreatment standard, after the compliance date of such pretreatment standard, or, in the case of a new source, after commencement of the discharge into the POTW, shall submit to the director during the months of June and December, unless required more frequently in the pretreatment standard or by the director, a report indicating the nature and concentration, of pollutants in the effluent which are limited by such pretreatment standards. In addition, this report shall include a record of all daily flows which during the reporting period exceeded the average daily flow. At the discretion of the director and in consideration of such factors as local high or low flow rates, holidays, budget cycles, etc., the director may agree to alter the months during which the above reports are to be submitted.
- (b) The director may impose mass limitations on users where the imposition of mass limitations are appropriate. In such cases, the report required by subparagraph (a) of this paragraph shall indicate the mass of pollutants regulated by pretreatment standards in the effluent of the user.
- (c) The reports required by this section shall contain the results of sampling and analysis of the discharge, including the flow and the nature and concentration, or production and mass where requested by the director, of pollutants contained therein which are limited by the applicable pretreatment standards. The frequency of monitoring shall be prescribed in the wastewater discharge permit or the pretreatment standard. All analyses shall be performed in accordance with procedures established by the administrator pursuant to section 304(g) of the Act and contained in 40 CFR, part 136 and amendments thereto or with any other test procedures approved by the director. Sampling shall be performed in accordance with the techniques approved by the director.
- (5) <u>Maintenance of records</u>. Any industrial user subject to the reporting requirements established in this section shall maintain records of all information resulting from any monitoring activities required by this section. Such records shall include for all samples:
 - (a) The date, exact place, method, and time of sampling and the names of the persons taking the samples.
 - (b) The dates analyses were performed.
 - (c) Who performed the analyses.
 - (d) The analytical techniques/methods used, and
 - (e) The results of such analyses.

Any industrial user subject to the reporting requirement established in this section shall be required to retain for a minimum of three (3) years all records of monitoring activities and results (whether or not such monitoring activities are required by this section) and shall make such records available for inspection and copying by the Director, Director of the Division of Water Quality Control, Tennessee Department of Public Health, or the Environmental Protection Agency. This period of retention shall be extended during the course of any unresolved litigation regarding the industrial user or when requested by the Director, the Approval Authority, or the Environmental Protection Agency.

- (6) <u>Safety</u>. While performing the necessary work on private properties, the director or duly authorized employees of the town shall observe all safety rules applicable to the premises established by the company and the company shall be held harmless for injury or death to the town employees and the town shall indemnify the company against loss or damage to its property by town employees and against liability claims and demands for personal injury or property damage asserted against the company and growing out of the monitoring and sampling operation, except as such may be caused by negligence or failure of the company to maintain safe conditions. (1985 Code, § 13-208)
- 18-209. <u>Enforcement and abatement</u>. (1) <u>Issuance of cease and desist orders</u>. When the director finds that a discharge of wastewater has taken place in violation of prohibitions or limitations of this chapter, or the provisions of a wastewater discharge permit, the director shall issue an order to cease and desist, and direct that these persons not complying with such prohibitions, limits requirements, or provisions to:
 - (a) Comply forthwith;
 - (b) Comply in accordance with a time schedule set forth by the director;
 - (c) Take appropriate remedial or preventive action in the event of a threatened violation; or
 - (d) Surrender his applicable user's permit if ordered to do so after a show cause hearing.

Failure of the director to issue a cease and desist order to a violating user shall not in any way relieve the user from any consequences of a wrongful or illegal discharge.

- (2) <u>Submission of time</u>. When the director finds that a discharge of wastewater has been taking place in violation of prohibitions or limitations prescribed in this chapter, or wastewater source control requirements, effluent limitations on pretreatment standards, or the provisions of a wastewater discharge permit, the director shall require the user to submit for approval, with such modifications as it deems necessary, a detailed time schedule of specific actions which the user shall take in order to prevent or correct a violation of requirements. Such schedule shall be submitted to the director within 30 days of the issuance of a cease and desist order.
 - (3) Show cause hearing. (a) The town may order any user who causes or allows an unauthorized discharge to enter the POTW to show cause before the town council why the proposed enforcement action should not be taken. A notice shall be served on the user specifying the time and place of a hearing to be held by the town commission regarding the

violation, the reasons why the action is to be taken, the proposed enforcement action, and directing the user to show cause before the town commission why the proposed enforcement action should not be taken. The notice of the hearing shall be served personally or by registered or certified mail (return receipt requested) at least ten (10) days before the hearing.

- (b) The town council may itself conduct the hearing and take the evidence, or may designate any of its members or any officer or employee of the water and sewer department to:
 - (1) Issue in the name of the town council notices of hearings requesting the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in such hearings.
 - (2) Take the evidence.
 - (3) Transmit a report of the evidence and hearing, including transcripts and other evidence, together with recommendations to the board for action thereof.
- (c) At any hearing held pursuant to this chapter, testimony taken must be under oath and recorded. The transcript, so recorded, will be made available to any member of the public or any party to the hearing upon payment of the usual charges thereof.
- (d) After the town council has reviewed the evidence, it may issue an order to the user responsible for the discharge directing that, following a specified time period, the sewer service be discontinued unless adequate treatment facilities, devices or other related appurtenances shall have been installed on existing treatment facilities, and that these devices or other related appurtenances are properly operated. Further orders and directives as are necessary and appropriate may be issued.
- (4) <u>Legal action</u>. If any person discharges sewage, industrial wastes, or other wastes into the town's wastewater disposal system contrary to the provisions of this chapter, federal or state pretreatment requirements, or any order of the town, the town attorney may commence an action for appropriate legal and/or equitable relief in the chancery court of this county.
- (5) Emergency termination of service. In the event of an actual or threatened discharge to the POTW of any pollutant which in the opinion of the director presents or may present an imminent and substantial endangerment to the health or welfare of persons, or cause interference with POTW, the director or in his absence the person then in charge of the treatment works shall immediately notify the commissioner of public utilities of the nature of the emergency. The director shall also attempt to notify the industrial user or other person causing the emergency and request their assistance in abating same. Following consultation with the aforementioned officials of the town or in their absence such elected officials of the town as may be available, the director shall temporarily terminate the service of such user or users as are necessary to abate

the condition when such action appears reasonably necessary. Such service shall be restored by the director as soon as the emergency situation has been abated or corrected.

- (6) <u>Public nuisance</u>. Discharges of wastewater in any manner in violation of this chapter, is hereby declared a public nuisance and shall be corrected or abated as directed by the director. Any person creating a public nuisance shall be subject to the provisions of the town codes or ordinances governing such nuisance.
- (7) <u>Correction of violation and collection of costs</u>. In order to enforce the provisions of this chapter the director shall correct any violation hereof. The cost of such correction shall be added to any sewer service charge payable by the person violating the chapter or the owner or tenant of the property upon which the violation occurred, and the town shall have such remedies for the collection of such costs as it has for the collection of sewer service charges.
- (8) <u>Damage of facilities</u>. When a discharge of wastes causes an obstruction, damage, or any other physical or operational impairment to facilities, the director shall assess a charge against the user for the work required to clean or repair the facility and add such charge to the user's sewer service charge.
- (9) <u>Civil liabilities</u>. Any person or user who intentionally or negligently violates any provision of this chapter, requirements, or conditions set forth in permit duly issued, or who discharges wastewater which causes pollution or violates any cease and desist order, prohibition, effluent limitation, national standard or performance, pretreatment, or toxicity standard, shall be liable civilly.

The Town of Signal Mountain shall sue for such damage in any court of competent jurisdiction. In determining the damages, the court shall take into consideration all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the nature and persistence of the violation, the length of time over which the violation occurs, and the correcting action, if any. (1985 Code, § 13-209)

- 18-210. Penalty; costs. (1) Civil penalties. Any user who is found to have violated an order of the town council or who willfully or negligently fails to comply with any provision of this chapter, and the order, rules, regulations and permits issued hereunder, shall be fined not less than fifty and 00/100 dollars (\$50.00) for each offense. Each day of which a violation shall occur or continue shall be deemed a separate and distinct offense. In addition to the penalties provided herein, the town may recover reasonable attorney's, court costs, court reporters' fees and other expenses of litigation by appropriate suit at law against the person found to have violated this chapter or the orders, rules, regulations, and permits issued hereunder.
- (2) <u>Falsifying information</u>. Any person who knowingly makes any false statements, representation or certification in any application, record,

report, plan or other document filed or required to be maintained pursuant to this chapter, or wastewater discharge permit, or who falsified, tampers with, or knowingly renders inaccurate any monitoring device or method required under this chapter, shall upon conviction be punished by a fine of not more than \$1,000 or by imprisonment for not more than six (6) months, or by both.

- (3) <u>Damaging or obstructing public sewers</u>. Any person who willfully, or maliciously damages, injures or obstructs any public or private sewer pipe, main or drain, laid at the direction of the town, shall, in addition to any other penalty provided by law, pay all expenses incurred on account of the repairs and damages arising from such act.
 - (4) Penalty for violation of this section. (a) Any person found to be violating any provision of this section except provisions relating to interfering with or damaging the sewerage work shall be served by the town with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within a period of time stated in such notice, permanently cease all violations.
 - (b) Any person who shall continue any violation beyond the time limit provided for in subsection (a) shall be guilty of an offense and, upon conviction thereof, shall be punished as prescribed in section 18-210(1) for each violation. Each day in which any such violation shall continue, shall be deemed a separate offense.
 - (c) Any person violating any of the provisions of this chapter shall be liable to the town for any expense, loss or damage occasioned by the town by reason of the violation. (1985 Code, § 13-210)
- 18-211. <u>Fees and billing</u>. (1) <u>Purpose</u>. It is the purpose of this chapter to provide for the equitable recovery of costs from user's of the town's wastewater treatment system, including costs of operation, maintenance, administration, bond service costs, capital improvements, depreciation, and equitable cost recovery of EPA administered federal wastewater grants.
- (2) <u>Types of charges and fees</u>. The charges and fees as established in the town's schedule of charges and fees, may include, but not be limited to:
 - (a) Inspection fee and tapping fee.
 - (b) Fees for applications for discharge.
 - (c) Sewer use charges.
 - (d) Surcharge fees.
 - (e) Industrial wastewater discharge permit fees.
 - (f) Fees for industrial discharge monitoring.
 - (g) Other fees as the town may deem necessary to carry out the requirements of this chapter.
- (3) <u>Fees for applications for discharge</u>. A fee may be charged when a user or prospective user makes application for discharge as required by section 18-206 of this chapter.

- (4) <u>Inspection fee and tapping fee</u>. An inspection fee and tapping fee for a building sewer installation shall be paid to the town's sewer department at the time the application is filed. Fees shall cover the costs of inspecting new and/or existing plumbing within subject building establishments as well as inspection of building sewers, property sewers, and sewer service lines and connections to the public sewers. The inspection fee and tapping fee shall be set by the town council.
 - (5) <u>Sewer user charges</u>. (a) <u>Classification of users</u>. Users of the wastewater system shall be classified into two (2) general classes or categories depending upon the users contribution of wastewater loads; each class user being identified as follows:
 - (1) <u>Class I</u>. Those users whose average biochemical oxygen demand (BOD) is two hundred fifty milligrams per liter (250 mg/l) by weight or less, and whose suspended solids discharge is two hundred fifty milligrams per liter (250 mg/l) by weight or less.
 - (2) <u>Class II</u>. Those users whose average biochemical oxygen demand (BOD) exceed two hundred fifty milligrams per liter concentration (250 mg/l) by weight and whose suspended solids exceeds two hundred fifty milligrams per liter concentration (250 mg/l).
 - (b) <u>Determination of costs</u>. The town council shall establish monthly rates and charges for the use of the wastewater system and for the services supplied by the wastewater system. Said charges shall be based upon the cost categories of administration costs, including billing and accounting costs; operation and maintenance costs of the wastewater collection and treatment system; and debt service costs.
 - (1) All users who fall under Class I shall pay a single unit charge expressed as dollars per 1,000 gallons of water purchased (\$/1,000 gallons), as measured by the water meters of the town with the unit charge being determined in accordance with the following formula:

$$C_i = \frac{T.S.C}{V_t}$$

Where;

 C_i = the Class I total unit cost in \$/1,000 gallons.

T.S.C. = the total operation and maintenance, administration, and debt service cost determined by yearly budget projections.

 $V_{\rm t}$ = the total volume of wastewater contribution from all users per year as determined from projections from one town fiscal year to the next.

- (2) All users who fall within the Class II classification shall pay the same base unit charge per 1,00 gallons of water purchased as for the Class I users and in addition shall pay a surcharge rate on the excessive amounts of biochemical oxygen demand (BOD) and suspended solids in direct proportion to the actual discharge quantities.
- (3) The volume of water purchased which is used in the calculation of sewer use charges may be adjusted by the commissioner of public utilities if a user purchases a significant volume of water for a consumptive use and does not discharge it to the public sewers (i.e., filling swimming polls, industrial heating, and humidifying equipment, etc.). The user shall be responsible for documenting the quantity of waste discharged to the public sewer.
- (4) When either or both the total suspended solids or biochemical oxygen demand (BOD) quantities discharged into the treatment works is in excess of those described in section 18-211(5)(a), above, thus being classified as Class II users, the following formula shall be used to compute the appropriate user charge.

$$C_u = V_c V_u + B_c B_u + S_c S_u$$

Where;

 C_u = Total user charge per unit of time.

V_c = Total cost for transportation and treatment of a unit of wastewater volume.

 V_u = Volume contribution per unit of time.

B_c = Total cost for treatment of a unit of biochemical oxygen demand (BOD).

 B_u = Total BOD contribution for a user per unit of time.

 S_c = Total cost of treatment of a unit of suspended solids.

- S_u = Total suspended solids contribution from a user per unit of time.
- (5) <u>Surcharge fees</u>. If it is determined by the town that the discharge of other loading parameters or wastewater substances are creating excessive operation and maintenance costs within the wastewater system, whether collection or treatment, then the monetary effect of such a parameter or parameters shall be borne by the discharge of such parameters in proportion to the amount of discharge.
- (6) <u>Industrial wastewater discharge permit fees</u>. A fee may be charged for the issuance of an industrial wastewater discharge permit in accordance with section 18-206 of this chapter.
- (7) <u>Fees for industrial discharge monitoring</u>. Fees may be collected from industrial user's having pretreatment or other discharge requirements to compensate the town for the necessary compliance monitoring and other administrative duties of the pretreatment program.
- (8) <u>Billing</u>. The billing for normal domestic wastewater services shall consist of monthly billing in accordance with the rates specified by the town. (1985 Code, § 13-211)

CHAPTER 3

CROSS-CONNECTIONS, AUXILIARY INTAKES, BY-PASSES, ETC.

SECTION

- 18-301. Definitions.
- 18-302. System to comply with state law.
- 18-303. Cross-connection to be approved.
- 18-304. Statement must be filed.
- 18-305. Inspections.
- 18-306. Right to enter.
- 18-307. Reasonable time to comply.
- 18-308. Grounds for discontinuance.
- 18-309. Protection of potable water system.
- 18-310. Requirements shall apply to all served.
- 18-311. Violations.
- 18-301. <u>Definitions</u>. The following definitions and terms shall apply in the interpretation and enforcement of this chapter.
- (1) "Public Water System." The waterworks system which furnishes water to all customers of Signal Mountain Utilities for general use and which is recognized as a public water system by the Tennessee Department of Health and Environment.
- (2) "Cross-Connection." Any physical arrangement whereby a public water system is connected, directly or indirectly, with any other water supply system, sewer, drain, conduit, pool, storage reservoir, plumbing fixture, or other device which contains, or may contain, contaminated water, sewage, or other waste or liquid of unknown or unsafe quality which may be capable of imparting contamination to the public water system as a result of backflow. By-pass arrangements, jumper connections, removable sections, swivel or change-over devices through which, or because of which, backflow could occur are considered to be cross-connections.
- (3) "Auxiliary Intake." Any piping connection or other device whereby water may be secured from a source other than that normally used.
- (4) "By-Pass." Any system of piping or other arrangement hereby the water may be diverted around any part or portion of a water purification plant.
- (5) "Inter-Connection." Any system of piping or other arrangement hereby the public water system is connected directly with a sewer, drain, conduit, pool, storage reservoir, or other device which does or may contain sewage or other waste or liquid which would be capable of imparting contamination to the public water system.
- (6) "Person." Any individual, corporation, company, association, partnership, state, municipality, utility district, water cooperative, or Federal Agency. (Ord. # 88-15)

- 18-302. <u>System to comply with state law</u>. Signal Mountain Public Water System is to comply with Sections 68-13-701 through 68-13-719 of the <u>Tennessee Code Annotated</u>, as well as the Rules and Regulations for Public Water Systems, legally adopted in accordance with this code, which pertain to cross-connections, auxiliary intakes, by-passes, and inter-connections, and establish an effective on-going program to control these undesirable water uses. (Ord. # 88-15)
- 18-303. <u>Cross-connection to be approved</u>. It shall be unlawful for any person to cause a cross-connection to be made; or allow one to exist for any purpose whatsoever unless the construction and operation of same have been approved by the Tennessee Department of Health and Environment, and the operation of such cross-connection, auxiliary intake, by-pass or inter-connection is at all time under the direct supervision of the Director of Public Utilities of the Signal Mountain Public Water System. (Ord. # 88-15)
- 18-304. <u>Statement must be filed</u>. Any person whose premises are supplied with water from the public water supply, and who also has on the same premises a separate source of water supply or stores water in an uncovered or unsanitary storage reservoir from which the water stored therein is circulated through a piping system, shall file with the Director of Public Utilities a statement of the non-existence of unapproved or unauthorized cross-connections, auxiliary intakes, by-passes, or inter-connections. Such statement shall also contain an agreement that no cross-connection, auxiliary intake, by-pass, or inter-connection will be permitted upon the premisses. (Ord. # 88-15)
- 18-305. <u>Inspections</u>. It shall be the duty of the Director of Public Utilities of the Public Water System to cause inspections to be made of all properties served by the public water supply where cross-connections with the public water supply are deemed possible. The frequency of inspections and re-inspections based on potential health hazards involved, shall be established by the Director of Public Utilities of the Signal Mountain Public Water System and as approved by the Tennessee Department of Health and Environment. (Ord. # 88-15)
- 18-306. Right to enter. The Director of Public Utilities or authorized representative shall have the right to enter at any reasonable time, any property served by a connection to the Signal Mountain Public Water System for the purpose of inspecting the piping system or systems therein for cross-connections, auxiliary intakes, by-passes, or inter-connections. On request, the owner, lessee, or occupant or any property so served shall furnish to the inspection agency and, pertinent information regarding the piping system or systems on such property. The refusal of such information or refusal of access, when requested, shall be deemed evidence of the presence of cross-connections. (Ord. # 88-15)

18-307. Reasonable time to comply. Any person who now has cross-connections, auxiliary intakes, bypasses, or inter-connections in violation of the provisions of this chapter, shall be allowed a reasonable time within which to comply with provisions of this chapter. After a thorough investigation of existing conditions and an appraisal of time required to complete the work, the amount of time shall be designated by the Director of Public Utilities of the Signal Mountain Public Water System.

The failure to correct conditions threatening the safety of the public water system as prohibited by this chapter and the <u>Tennessee Code Annotated</u>, Section 68-13-711, with a reasonable time and within the time limits set by the Signal Mountain Public Water System shall be grounds for denial of water service. If proper protection has not been provided after a reasonable time, the utility shall give the customer legal notification that water service is to be discontinued, and physically separate the public water system from the customers on-site piping system in such a manner that the two systems cannot again be connected by an unauthorized person.

Where cross-connections, inter-connections, auxiliary intakes or by-passes are found that constitutes an extreme- hazard of immediate concern of contaminating the public water system, the management of the water system shall require that immediate corrective action be taken to eliminate the threat to the public water system. Immediate steps shall be taken to disconnect the public water system from the on-site piping system unless the imminent hazard(s) is correct immediately. (Ord. # 88-15)

18-308. <u>Ground for discontinuance</u>. Where the nature of use of the water supplied a premises by the water system is such that it is deemed:

- (1) Impractical to provide an effective air-gap separation;
- (2) That the owner and/or occupant of the premises cannot or is not willing, to demonstrate to the official in charge of the water system, or his designated representative, that the water use and protective features of the plumbing are such as to propose no threat to the safety or potability of the water system;
- (3) That the nature and mode of operation within a premises are such that frequent alterations are made to the plumbing;
- (4) There is a likelihood that protective measures may be subverted, altered, or disconnected.

The Director of Public Utilities of the Signal Mountain Public Water System, or his designated representative, shall require the use of an approved protective device on the service line serving the premises to assure that any contamination that may originate in the customer's premises is contained therein. The protective devices shall be reduced pressure zone type backflow preventer approved by the Tennessee Department of Health and Environment as to manufacture, model, and size. The method of installation of backflow protective devices shall be approved by the Director of Public Utilities of the

Public Water System prior to installation and shall comply with the criteria set forth by the Tennessee Department of Health and Environment. The installation shall be at the expense of the owner or occupant of the premises.

Personnel of the Signal Mountain Public Water System shall have the right to inspect and test the device or devices on an annual basis or whenever deemed necessary by the Director of Public Utilities, or his designated representative. Water service shall not be disrupted to test the device without the knowledge of the occupant of the premises.

Where the use of water is critical to the continuance of normal operations or protection of life, property, or equipment, duplicate units shall be provided to avoid the necessity of discontinuing water service to test or repair the protective device or devices. Where it is found that only one unit has been installed and the continuance of service is critical, the Director of Public Utilities shall notify, in writing, the occupant of the premises of plans to discontinue water service and arrange for a mutually acceptable time to test and/or repair the device. The water system shall require the occupant of the premises to make all repairs indicated promptly, to keep the unit(s) working properly, and the expense of such repairs shall be borne by the owner or occupant of the premises. Repairs shall be made by qualified personnel, acceptable to the Director of Public Utilities of the Signal Mountain Public Water System.

The failure to maintain backflow prevention device(s) in proper working order shall be grounds for discontinuing water service to a premises. Likewise the removal, bypassing, or altering the protective device(s) or the installation thereof so as to render the device(s) ineffective shall constitute grounds for discontinuance of water service. Water service to such premises shall not be restored until the customer has corrected or eliminated such conditions or defects to the satisfaction of the Signal Mountain Public Water System. (Ord. # 88-15)

18-309. <u>Protection of potable water system</u>. The potable water system made available to premises served by the public water system be protected from contamination as specified herein. Any water outlet which could be used for potable or domestic purposes and which is not supplied by the potable system must be labeled in a conspicuous manner as:

WATER UNSAFE FOR DRINKING

Minimum acceptable sign shall have black letters at least one-inch high located on a red background. (Ord. # 88-15)

18-310. Requirements shall apply to all served. The requirements contained herein shall apply to all premises served by the Signal Mountain Public Water System whether located inside or outside the corporate limits and

are hereby made a part of the conditions required to be met for the town to provide water services to any premises. Such action, being essential for the protection of water distribution system against the entrance of contamination which may render the water unsafe healthwise, or otherwise undesirable, shall be enforced rigidly without regard to location of the premises, whether inside or outside the Signal Mountain Corporate Limits. (Ord. # 88-15)

18-311. <u>Violations</u>. Any person who neglects or refuses to comply with any of the provisions of this chapter shall be deemed guilty of a misdemeanor and, upon conviction therefore, shall be fined not less than ten dollars (\$10) nor more than one hundred dollars (\$100.00), and each day of continued violation shall constitute a separate offense. (Ord. # 88-15)

CHAPTER 4

WATER SHORTAGE AND DROUGHT CONDITIONS

SECTION

- 18-401. Declaration of policy, purpose, and intent.
- 18-402. Definitions.
- 18-403. Water use classification system.
- 18-404. Management phases.
- 18-405. Shortage water rates (stand-by rates).
- 18-406. Rationing.
- 18-407. Fines and penalties (failure to comply).
- 18-408. Monitoring and enforcement.
- 18-409. Variances (relief from compliance).
- 18-410. Activation and deactivation of management phases.

18-401. <u>Declaration of policy, purpose, and intent</u>. Purpose: To achieve the greatest public benefit from domestic water use, sanitation, and fire protection, and to provide water for other purposes in an equitable scanner, the Town of Signal Mountain adopts the following regulations and restrictions on the delivery and consumption of water.

This chapter is hereby declared necessary for the preservation of public health, safety, and welfare and shall take effect upon its adoption by the Town of Signal Mountain.

Whenever, in the judgment of the governing body of the Town of Signal Mountain it becomes necessary to conserve water in the service area, due to drought or in the distribution of water, the Town of Signal Mountain is authorizes to issue a declaration that existing conditions prevent fulfillment of the usual water-use demands. The declaration is an attempt to prevent depleting the water supply to the extent that water-use for human consumption, sanitation, fire protection, and other essential needs become endangered.

Immediately upon the issuance of such a declaration, regulations and restrictions set forth under this chapter shall become effective and remain in effect until the water shortage is terminated and the declaration rescinded.

Water uses, regulated or prohibited under this chapter are considered to be non-essential and continuation of such uses during times of water shortage are deemed to constitute a waste of water, subjecting the offender(s) to penalties.

The provisions of this chapter shall apply to customers of the Town of Signal Mountain. (Ord. # 88-11)

18-402. <u>Definitions</u>. For the purposes of this chapter the following definitions shall apply:

- (1) "Conservation." Reduction in water use to prevent depletion or waste of the resource.
- (2) "Customer." Any person, company, or organization using water supplied by the Town of Signal Mountain.
- (3) "Domestic water use." Water use for personal needs or for household purposes; such as, drinking, bathing, heating, cooking, sanitation, including employees' use in business, industry, or institution.
 - (4) "Management Phases." (a) "Conservation." A conservation phase exists when deemed necessary by the Town of Signal Mountain and has been verified by best available information.
 - (b) "Restrictions." A restrictions phase exists when deemed necessary by the Town of Signal Mountain and has been verified by best available information.
 - (c) "Emergency." An emergency phase exists when deemed necessary by the Town of Signal Mountain and has been verified by best available information.
- (5) "Even numbered address." Street addresses, box numbers or rural route numbers ending in 0, 2, 4, 6, 8, or letters A-M; and locations without addresses.
- (6) "Institutional water use." Water used by government, public and private educational institutions, public medians and rights of way, churches and places of worship, water utilities, and other lands, buildings, and organizations.
- (7) "Landscape water use." Water used to maintain gardens, trees, lawns, shrubs, flowers, athletic fields, rights of way and medians.
- (8) "Odd numbered address." Street addresses, box numbers or rural route numbers ending in 1, 3, 5, 7, 9, or letters N-Z.
- (9) "Water shortage." Lack of adequate available water to meet normal demands due to lower than normal precipitation, reduced stream flows or soil moisture, water levels in wells which cause water supplies to be less than usual, major water line breaks, chemical spills, etc. resulting in reduced water supplies. (Ord. #88-11)

18-403. Water use classification system.

First Class Essential Water Uses: Residential. Second Class Essential Water Uses: Commercial. Third Class Essential Water Uses: Golf course. (Ord. # 88-11)

- 18-404. <u>Management phases</u>. Three levels of water management are established: "Conservation," "Restrictions," and "Emergency." Declarations issued by the Town of Signal Mountain shall specify the water management phase in effect and undertake the appropriate water management activities.
- (1) <u>Drought alert provisions and implementation</u>. When a local, regional or statewide "Drought Alert" is issued by the Tennessee Office of Water Management, the Town of Signal Mountain will begin, if not already underway,

regular monitoring of supply and demand conditions applicable to the Town of Signal Mountain. Users of the system will be alerted to the activation possibility of the water shortage management plan. Notice will be made to a newspaper of general circulation within the affected community or area. In addition, the Town of Signal Mountain will encourage water users to assess their use of water.

- (2) <u>Conservation phase provisions</u>. If conditions indicate that a moderate water shortage condition is present and is expected to persist, the Town of Signal Mountain shall activate those requirements outlined in this section to reduce water use.
 - (a) Goal:
 - (1) An overall water use reduction of fifteen (15) percent. Voluntary water use reductions would be requested for essential, economic and social uses.
 - (2) Non-essential water uses would be banned.
 - (b) <u>General response</u>: Issue a Declaration of Water Shortage in a newspaper of general circulation within the affected community and region. This statement shall specify that conservation phase measures are necessary and shall include the list of non-essential water uses.
 - (c) <u>Restrictions applying to non-essential uses:</u> Outdoor watering residents:
 - (1) Only between the hours of 9:00 p.m. and 6:00 a.m.
 - (2) Odd numbered houses can only water on Monday, Wednesday, Friday.
 - (3) Even numbered houses can only water on Tuesday, Thursday, Saturday.
 - (4) No watering on Sunday.
 - (5) No car washing will be allowed.
 - (6) All water customers are subject to total watering ban if the need arises.
 - (7) No filling of swimming pools.
 - (d) Restrictions applying to manor water users:
 Outdoor watering major users:
 - (1) Only between the hours of 12:00 a.m. and 6:00 a.m.
 - (2) No watering on Sunday.
 - (3) Major users are subject to total watering ban if the need arises.
- (3) <u>Restrictions phase provisions</u>. If conditions indicate that a severe water shortage condition is present and is expected to persist the Town of Signal Mountain shall activate those requirements outlined in this section to curtail water uses.
 - (a) <u>Goal</u>: An overall water use reduction of thirty (30) percent. Voluntary water use reductions would be requested for essential uses. Nonessential water uses would be banned, resulting in a 100 percent

overall class reduction. Curtailments in Second and Third Class Essential Water uses would be required resulting in a seventeen (17) percent combined class reduction.

- (b) <u>General responses</u>: (1) Issue a Declaration of Water Shortage in a newspaper of general circulation within the affected community and region. This statement shall specify that a Restrictions Phase is in effect and shall include the list of banned uses, and the list of restricted water uses.
- (2) Require customers of the Town of Signal Mountain to comply with the listed water-use bans and restrictions in all categories while severe drought conditions exist.
- (c) <u>Restrictions applying to second and third class essential</u> water uses:

Water restriction - Residents:

- (1) No outdoor watering will be allowed.
- (2) No car washing.
- (3) No filling of swimming pools.
- (d) Major users: No outdoor watering will be allowed.
- (4) <u>Emergency phase provisions</u>. If conditions indicate that an extreme water shortage condition is present, the Town of Signal Mountain shall activate the provisions outlined in this section to curtail water use.

Water-use restrictions imposed during extreme water shortage conditions are mandatory.

- (a) Goal:
- (1) An overall water use reduction of sixty (60) percent; only First Class Essential water uses would be allowed.
 - (2) All other water uses would be prohibited.
- (b) General responses:
- (1) Issue a Declaration of Water Shortage in a newspaper of general circulation within the affected community and region. This statement shall specify that an Emergency Phase is in effect. It shall include the list of banned water uses.
- (2) Require customers of the Town of Signal Mountain to comply with the listed water-use restrictions in all categories while extreme water shortage conditions exist.
- (c) <u>Restrictions applying to second and third class essential</u> water uses: (Ord. # 88-11)
- 18-405. Shortage water rates (stand-by rates). Upon the declaration of a water shortage, the Town of Signal Mountain shall utilize shortage water rates to water conservation of water supplies. (Such rates may provide for but not be limited to: (a) higher charges per unit for increasing usage (increasing block rates); (b) uniform charges for water usage per unit of use (uniform unit rate); (c) extra charges for use in excess of a specified level (excess demand

surcharge); or (d) discounts for conserving water beyond specified levels. This chapter includes an example of an "excess use or surcharge" structure.)

In the event of a water shortage and activation of the "restrictions" phase, the Town of Signal Mountain is hereby authorized to monitor water use and limit households to 70 gallons per household member per day. Domestic water use above this limit will be subject to a surcharge of \$25.00 per 1000 gallons. The Town of Signal Mountain is hereby authorized to monitor water use and limit households to 40 gallons per household member per day under an "emergency" phase. Domestic water use above this limit will be subject to a surcharge of \$50.00 per 1000 gallons. Institutional, commercial, industrial, and recreational water users will be subject to water use surcharges of \$100.00 per 1000 gallons of water used if the Town of Signal Mountain deems that adequate conservation measures have not been implemented. (Ord. # 88-11)

- 18-406. <u>Rationing</u>. In the event of a declares drought the Town of Signal Mountain issues a Declaration of Water Shortage specifying either a Restrictions phase or Emergency phase the Town of Signal Mountain is hereby authorized to ration water in accordance with the following conditions:
 - (1) Residential water customers and allotments. (a) The number of permanent residents in each dwelling unit (household) will determine the amount of water that each household will be allowed.
 - (b) Each dwelling unit (household) shall be allotted 70 gallons per day for each resident of the household under "restrictions" and 40 gallons per day for each resident of the household under "emergency" conditions. Households with only one permanent resident will have a daily allotment of 55 gallons per day under "emergency" conditions.
 - (c) Residential water customers are required to provide town utility personnel with reasonable access to read meters as necessary to this rationing declaration. Where access is not readily available, all reasonable efforts to contact customers in order to arrange for access to read meters shall be made. In the event a water customer does not allow entry to read the meter after reasonable efforts to arrange for such access, the dwelling unit (household) allotment will be reduced to 55 gallons per day.
 - (d) Where the residential water allotment provided under this section would create an "extraordinary hardship," as in the case of special health-related requirements, the water customer may apply to the water system for an exemption or variance from these requirements. If it is found that the allotment provided in this section would impose an extraordinary hardship, a revised allotment for the particular customer may be established.
 - (e) Any person aggrieved by a decision relating to such an exemption or variance rendered by the municipality rendering water

service, may file a complaint with the Town of Signal Mountain Town Hall.

(2) <u>Non-Residential water customers and allotments</u>. Non-residential customers include commercial, industrial, institutional, public and all other such users, with the exception of hospitals and health care facilities.

Non-residential water customers shall further reduce their water usage to fifty (50) percent of use levels as decided by the town council.

It is the primary responsibility of each non-residential water customer to meet its mandated water use reduction goal in whatever manner possible.

The Town of Signal Mountain will establish a water allotment for each non-residential water customer, based upon a required further reduction of water usage from the rate of water used by the customer, or the last recorded use level if no meter readings record the rate of the customer's use.

Each non-residential water user shall provide access to water system personnel for purposes of meter reading and monitoring of compliance with this chapter. All reasonable efforts will be made to contact customers to arrange for access.

If the mandated further reduction in water usage cannot be obtained without imposing extraordinary hardship which threatens health and safety, the non-residential customer may apply to the water system for a variance. For these purposes "extraordinary hardship" means a permanent damage to property or economic loss which is substantially more severe than the sacrifices borne by other water users subject to this water rationing chapter. If the further reduction would cause an extraordinary hardship or threaten health or safety, a variance may be granted and a revised water use reduction requirement for the particular customer may be established.

Any person aggrieved by a decision relating to such a variance rendered by a public utility may file a complaint with the Town Council of the Town of Signal Mountain.

(3) Water use rationing for hospitals and health care facilities. Hospitals and health care facilities shall comply with all restrictions imposed on residential and non-residential water customers as may be applicable to each individual institution, to the extent compliance will not endanger the health of the patients or residents of the institution.

Each hospital or health care facility shall survey its water usage patterns and requirements and implement such additional conservation measures as may be possible without endangering the health of its patients or residents to achieve a further reduction in the institution's water usage. (Ord. # 88-11)

18-407. <u>Fines and penalties (failure to comply)</u>. Except as otherwise stated herein, violators of any provision of this chapter shall be penalized. The penalty for a person's first offense shall be water disconnection with a reconnection fee of \$100. The penalty for a person's second offense shall be water disconnection with a reconnection fee of \$200. Persons violating this

chapter a third or more times within the same drought period will have water service disconnected for a period of five (5) days with a \$300 reconnection fee.

The aforementioned fines and penalties may be in lieu of, or in addition to, any other penalty provided by law.

Services disconnected under such circumstances shall be restored only upon payment of a reconnection charge. (Ord. # 88-11)

18-408. <u>Monitoring and enforcement</u>. Law officers of the Town of Signal Mountain police force shall, in addition to duties imposed by law, diligently enforce the provisions of this chapter.

Employees of the Town of Signal Mountain, Department of Public Works, and Fire Department have the duty, and are hereby authorized to enforce the provisions of this chapter and shall have the power and authority to issue citations when violations of this chapter occur during any declared drought. (Ord. # 88-11)

18-409. <u>Variance (relief from compliance)</u>. (1) Customers not capable of reducing water use immediately, because of equipment damage or other extreme circumstances, shall reduce water use within twenty-four hours of a declaration of a water shortage, where provisions of this chapter apply to them and shall apply for a variance from curtailment.

Customers requesting exemption from the provisions of this chapter shall file a petition for variance with the town council and town attorney within three (3) days after such curtailment becomes effective.

When the chapter has been invoked by the mayor, all petitions for variances shall be reviewed by the town council and town attorney. When the chapter has been invoked by the mayor, persons using less than 25,000 gallons of water per day shall file a petition for variance with the town council and town attorney, and persons using in excess of 25,000 gallons of water per day shall file a petition for variance with the town council and town attorney within three (3) days of the effective date of water use curtailment or reduction. The town council and town attorney shall respond to requests for variance within five (5) days of receipt of information or within twenty (20) days of declarations of the curtailment, whichever comes first. Petitions shall contain the following:

- (a) Name and address of the petitioner(s).
- (b) Purpose of water use.
- (c) Specific provision from which the petitioner is requesting relief.
- (d) Detailed statement as to how the declaration adversely affects the petitioner.
 - (e) Description of the relief desired.
 - (f) Period of time for which the variance is sought.
 - (g) Economic value of the water use.

- (h) Damage or harm to the petitioner or others if petitioner complies with chapter.
- (i) Restrictions with which the petitioner is expected to comply and the compliance date.
- (j) Steps the petitioner is taking to meet the restrictions from which variance is sought and the expected date of compliance.
 - (k) Other pertinent information.
- (2) In order for a variance to be granted, petitioner must show one or more of the following conditions:
 - (a) Compliance with the chapter cannot be technically accomplished during the duration of the water shortage.
 - (b) Alternative methods can be implemented which will achieve the same level of reduction in water use.
 - (c) An extraordinary hardship can be shown.
- (3) The Town of Signal Mountain may, in writing, grant temporary variances for existing water uses otherwise prohibited under the chapter if it is a condition adversely affecting health, sanitation, or fire protection for the public or the petitioner and if one or more of the aforementioned conditions is met. The governing body of the Town of Signal Mountain shall ratify or revoke any such variance at their next scheduled meeting. Any such variance so ratified may be revoked by later action of the governing body of the Town of Signal Mountain.

No variance shall be retroactive or otherwise justify any violation of this chapter occurring prior to the issuance of the variance.

Variances granted by the town council and town attorney shall be subject to the following conditions, unless waived or modified by the town council and town attorney.

- (a) Variances granted shall include a timetable for compliance.
- (b) Variances granted shall expire when the water shortage no longer exists. (Ord. # 88-11)

18-410. Activation and deactivation of management phases.

- (1) <u>Declaration of a drought</u>. Whenever the Town of Signal Mountain finds that a potential shortage of water supply is indicated, it shall be empowered to declare a drought exists, and that the water superintendent shall, daily, monitor the supply and demands upon that supply. In addition, the mayor (or his/her agent) is authorized to specify the management phase in effect and the measures to be employed by the system's customers. This declaration shall be published in an official city newspaper, and may be publicized through the general news media or any other appropriate method for making such resolutions public.
- (2) <u>Termination of drought phases</u>. Whenever the Town of Signal Mountain finds supplies have returned to normal, it shall be empowered to replace or declare as ended by resolution any phase enacted. Such a declaration shall follow the same guidelines used for declaring a drought. (Ord. # 88-11)

CHAPTER 5

SEPTIC TANK EFFLUENT PUMP (S.T.E.P.) SYSTEM

SECTION

- 18-501. Definition.
- 18-502. Homes served.
- 18-503. Lots served.
- 18-504. Installation and ownership.
- 18-505. Approved equipment.
- 18-506. Town ownership--easements.
- 18-507. Rules of use, permits.
- 18-508. Fees.
- 18-509. User's guide.
- 18-510. Access.
- 18-511. Excess calls.
- 18-512. Cleaning.
- 18-513. Odorization.
- 18-514. Adoption by reference.
- 18-501. <u>Definition</u>. A S.T.E.P. sewer system is a facility consisting of a tank or tanks for settling and digesting wastewater solids, and a pump and pressure piping system for conveying the supernatant liquid into the sewer system. Where the construction of sewers is desired or required, and gravity sewers are not feasible or possible, septic tank effluent pump (S.T.E.P.) systems may be installed according to the regulations of this chapter. (As added by Ord. #98-30, Oct. 1998)
- 18-502. <u>Homes served</u>. Existing homes which exist or become within 300 feet of a newly-installed S.T.E.P. sewer main are not required to connect to the main unless
 - (1) Their septic system fails, or
- (2) The town is constructing the S.T.E.P. main. (As added by Ord. #98-30, Oct. 1998)
- 18-503. <u>Lots served</u>. Vacant lots which exist or become within 300 feet of a newly-installed S.T.E.P. sewer main are required to connect to the main when a home is built. (As added by Ord. #98-30, Oct. 1998)
- 18-504. <u>Installation and ownership</u>. The S.T.E.P. sewer mains shall be installed pursuant to specifications approved by the town and adopted herein by reference, and the state. They shall be owned and maintained by the developer installing it for the first year it is installed and used. After the first year, the developer shall contribute the S.T.E.P. sewer main in good condition

to the town which shall own and maintain it in perpetuity. The developer shall pay the town plans review and systems inspection fees as may be set by the council. (As added by Ord. #98-30, Oct. 1998)

- 18-505. <u>Approved equipment</u>. S.T.E.P. sewer customers must purchase town-approved and state-approved S.T.E.P. tanks, pumps, and related hardware. The town may develop a system to offer customers a town-bid, predetermined price and vendor for the approved S.T.E.P. pumps and tanks. (As added by Ord. #98-30, Oct. 1998)
- 18-506. Town ownership-easements. S.T.E.P. tanks, pumps, and service lines shall be installed by the property owner or homebuilder in locations approved by the town using specifications set by the town, and immediately donated to the town for perpetual ownership and maintenance after inspection by the town, along with an easement for the town to gain access to and through private property to maintain these items. Access manholes, ports, and electrical disconnects must not be locked, obstructed, or blocked by landscaping or construction. The customer shall be responsible for maintaining all plumbing within the house and to the S.T.E.P. tank. (As added by Ord. #98-30, Oct. 1998)
- 18-507. Rules of use, permits. S.T.E.P. sewer customers must employ installers from the town's list of approved contractors for the installation of the approved pumps, tanks, and service lines. A town-approved permit must be requested and approved before installation can proceed. The town shall inspect the installation. The town inspector shall be notified a minimum of 48 hours in advance of a tap connection to an existing main. The inspector shall be present at the time of the tap. The customer supplies electric power to the S.T.E.P. system. The customer shall be responsible for notifying the town when the control panel alarm buzzer is activated. The customer shall be responsible for curtailing water usage until town forces respond to the customer's notification. The town will accept no responsibility for damages resulting from a plumbing backup, such as may occur if water usage is not curtailed during an alarm condition or if the customer disables the alarm. (As added by Ord. #98-30, Oct. 1998)
- 18-508. <u>Fees</u>. S.T.E.P. sewer customers shall pay the same sewer fees as gravity sewer customers, including the tap fee, except for additional emergency maintenance, monthly maintenance surcharges and/or application fees the council may set by policy from time to time. (As added by Ord. #98-30, Oct. 1998)
- 18-509. <u>User's guide</u>. S.T.E.P. sewer customers are responsible for following the town-provided S.T.E.P. users guide which prohibits, among other things, the following uses:

- (1) Connection of roof guttering, sump pumps, or surface drains.
- (2) Disposal of toxic household substances.
- (3) Misuse of garbage grinders or disposals as outlined in the "Property Owner/Homeowner User Information and Guidelines" document adopted by reference.
 - (4) Discharge of water softener backwash water.
 - (5) Discharge of pet hair, lint, or home vacuum water.
- (6) Discharge of fats, grease or oils. (As added by Ord. #98-30, Oct. 1998)
- 18-510. Access. The customer must maintain access to the tank riser and service box lid, and access to the system control panel. Maintenance of the piping between the house and the tank is the responsibility of the resident. (As added by Ord. #98-30, Oct. 1998)
- 18-511. Excess calls. S.T.E.P. sewer customers may be assessed penalty fees and/or charges, as may be set by policy by the town council, for abuse of the S.T.E.P. tank and pump causing excessive alarms and emergency maintenance calls. (As added by Ord. #98-30, Oct. 1998)

18-512. <u>Cleaning</u>. Town will provide

- (1) Filter cleaning and system inspection annually, and
- (2) Tank pumping as needed. Service requirements more frequent than this cycle, for Item #1 above, may warrant extra service charges as may be set by town council policy. (As added by Ord. #98-30, Oct. 1998)
- 18-513. Odorization. The developer/contractor installing a S.T.E.P. system shall be held responsible for odorization until the subdivision/system is fully developed. A bond for an amount and time period as determined by the town, dependent on the S.T.E.P. system design, shall be required for the implementation of an odor control system. In the event odor problems occur, the developer/contractor shall develop a plan of action to address the issue and submit the plan to the town for acceptance. The town's acceptance of an odor control project does not, in any way, relieve the developer/contractor from the responsibility of further odor control measures. The developer/contractor shall be responsible for implementing the accepted plan, including payment thereof for installation, operation and maintenance, to remedy any odor problems. (As added by Ord. #98-30, Oct. 1998)
- 18-514. <u>Adopted by reference</u>. The Town of Signal Mountain, Tennessee shall adopt herein, by reference, all requirements and regulations set forth in two documents maintained at the Signal mountain Town Hall, and available for public inspection during regular town business hours, entitled:

- (1) Standard Specifications for Septic Tank Effluent Pump (S.T.E.P.) Systems and;
- (2) Standard Details for Septic Tank Effluent Pump (S.T.E.P.) Systems. (As added by Ord. #98-30, Oct. 1998)

CHAPTER 6

SEPTIC SYSTEMS OTHER THAN SEPTIC TANK EFFLUENT PUMP (S.T.E.P.) SYSTEMS

SECTION

- 18-601. Building site.
- 18-602. Application to construct a septic system.
- 18-603. Septic system construction inspection.
- 18-601. <u>Building site</u>. The proposed building site must meet all criteria of the Chattanooga-Hamilton County Health Department Environmental Health Groundwater Protection Regulations, including those contained in the Sections Existing Lots (Page 3) in the 1998 document "Changes to Policies & Procedures." (As added by Ord. #99-1, Jan. 1999)
- 18-602. <u>Application to construct a septic system</u>. Persons planning to construct a septic system within the Town of Signal Mountain must, in addition to the permit application filed with Chattanooga-Hamilton County Health Department, file an application for services within the Town of Signal Mountain accompanied by the following items:
- (1) An application for Subsurface Sewage Disposal System Construction Permit, with \$50.00 fee, specific to the Town of Signal Mountain.
 - (2) A 1'' = 50' scale plat of the lot with the following items:
 - (a) Scale drawing of house in location desired;
 - (b) Scale drawing of all driveways, walkways and impervious areas to be constructed;
 - (c) Calculation of the impervious area to be present on the lot expressed both in square feet and in percentage of the total area of the lot:
 - (d) Storm water drainage plan to remove all water from impervious areas to drainage easement specified on subdivision plat that do not impact the primary and reserve drain fields;
 - (e) Location of all planned underground utilities;
 - (f) Location of septic system primary drain field and reserve drain field areas; and
 - (g) Location of any planned items which would impact the septic system, i.e. swimming pools, outbuildings, etc.
- (3) Brochure(s) stating gallonage for each and any whirlpool type bathtub to be installed in the proposed structure.
- (4) Blueprints of house to be constructed as well as notarized statement of number of bedrooms to be present in the structure (see Chattanooga-Hamilton County Technical Manual of the Division of Groundwater Protection revised September 1, 1998, as may be amended from

time to time). Upon final inspection by the Town of Signal Mountain Building Inspector and the structure is found to have more bedrooms than specified on the application for services, no final approval should be given until either the septic system is modified or the bedrooms are modified.

- (5) Actual soil mapping and/or soil percolation test data is to be used in the sizing of septic system disposal systems.
- (6) The distances between disposal line trench walls is to be in accordance with Chattanooga-Hamilton County Health Department Environmental Health Groundwater Protection Regulations.
- (7) Any conventional septic system requiring a pump would require an approved means to provide equal distribution of effluent within the disposal trenches. Examples of approved means of flow division including but are not limited to, Low Pressure Pipe distribution, OSI's Hydro-splitter, drop boxes or any means of flow division acceptable to the Chattanooga-Hamilton County Health Department Environmental Health Groundwater Protection.
- (8) All septic tanks and pump tanks installed within the Town of Signal Mountain must be:
 - (a) Certified as watertight by the manufacturer, and;
 - (b) Certified as watertight on site by the successful completion of a water tightness test as specified on page 16 of the document Proposed Subsurface Sewage Disposal System Policies and Procedures for the Town of Signal Mountain.
- (9) The Chattanooga-Hamilton County Health Department has regulations addressing septic tank sizes up to five-bedroom homes. For larger homes, the tank sizes shall be:

6 BDR = 1,750 gallons 7 BDR = 2,000 gallons 8 BDR = 2,250 gallons

Each additional BDR = 250 gallons. (As added by Ord. #99-1, Jan.

1999)

- 18-603. <u>Septic system construction inspection</u>. During the construction of the disposal field, the Town of Signal Mountain Building Inspector or his/her representative should conduct site visits to determine the following:
- (1) That the house structure is being constructed in the proper area as designated by the Chattanooga-Hamilton County Health Department Environmental Health Ground Water Protection Authority and not in an area which conflicts with the primary or secondary field line areas.
- (2) That the disposal field is being constructed in the proper area as designated by the construction permit issued by the Chattanooga-Hamilton County Health Department Environmental Health Groundwater Protection Authority and that a licensed installer is constructing the system.
 - (3) That the flow division mechanism is installed properly.

- (4) All septic tanks and pump tanks are equipped with an approved access riser extending to finished grade and fitted with a secure lid.
- (5) That the septic tank and pump tanks are watertight by observing watertight testing by obtaining a copy of the manufacturer's certificate if a S.T.E.P. tank is installed.
- (6) That no damage has occurred to the system prior to final covering such as holes being knocked in tanks by equipment or other means, crossovers being crushed or any other mechanical damage. (As added by Ord. #99-1, Jan. 1999)

CHAPTER 7

STORMWATER RUNOFF REGULATION AND CONTROL

SECTION

- 18-701. General provisions.
- 18-702. Definitions.
- 18-703. Waivers.
- 18-704. Stormwater system design: construction and permanent stormwater management.
- 18-705. Permanent stormwater management: operation, maintenance, and inspection.
- 18-706. Existing locations and ongoing developments.
- 18-707. Illicit discharges.
- 18-708. Enforcement.
- 18-709. Penalties.
- 18-710. Appeals.
- 18-701. <u>General provisions</u>. (1) <u>Purpose</u>. It is the purpose of this chapter to:
 - (a) Protect, maintain, and enhance the environment of the town 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 permit (NPDES) and applicable regulations, 40 CFR 122.26 for stormwater discharges;
 - (c) Allow the town to exercise the powers granted in <u>Tennessee</u> <u>Code Annotated</u>, § 68-221-1105, which provides that, among other powers cities 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 town, whether or not owned and operated by the town;
 - (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 discharge 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) <u>Administering entity</u>. The Town of Signal Mountain shall administer the provisions of this chapter.
- (3) Stormwater management ordinance. The intended purpose of this chapter 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. #2001-6, Dec. 2001, and replaced by Ord. #2014-10, Dec. 2014)
- 18-702. <u>Definitions</u>. 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; 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 <u>Webster's Dictionary</u>.
- (1) "Administrative or civil penalties." Under the authority provided in <u>Tennessee Code Annotated</u>, § 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.
- "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 sixty feet(60') 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":
 - (i) 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. A thirty foot (30') 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 thirty feet (30') 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.

- Buffer zone requirements for discharges into impaired or high quality waters: A sixty foot (60') natural riparian buffer zone adjacent to the receiving stream designated as impaired or high quality 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 sixty feet (60') 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.
- (b) "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 greater than one (1) square mile will require buffer widths of sixty feet (60') minimum. The sixty feet (60') 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. Streams or other waters with drainage areas less than one (1) square mile will require buffer widths of thirty feet (30') minimum. 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 fifteen feet (15') 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., two (2) yr, five (5) yr, twenty-five (25) yr, etc.,) in terms of either twenty-four (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, town 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
 - (i) 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 storm water and not specifically exempted under § 18-707(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 SWPPPs;
 - (c) Conduct pre-construction inspection to verify that undisturbed areas have been properly marked and initial measures 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, redevelopment, 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, manmade 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 permit" or a "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 poltion of the precipitation on a drainage area that is discharged from the area into the municipal separate storm 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 of storm water 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 SWPPPs 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. #2001-6, Dec. 2001, replaced by Ord. #2003-7, Nov. 2003, amended by Ord. #2004-4, June 2004, and replaced by Ord. #2014-10, Dec. 2014)
- 18-703. <u>Waivers</u>. (1) <u>General</u>. 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 separate 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) <u>Downstream damage</u>, <u>etc.</u> <u>prohibited</u>. In order to receive consideration, the applicant must demonstrate to the satisfaction of the the Town of Signal Mountain 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) <u>Land disturbance permit not to be issued where alternatives requested</u>. No land disturbance 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. #2001-6, Dec. 2001, and replaced by Ord. #2003-7, Nov. 2003, and Ord. #2014-10, Dec. 2014)
- 18-704. 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 City of Chattanooga, Hamilton County and Town of Signal Mountain Stormwater Management Manual (BEST MANAGEMENT PRACTICES (BMP) MANUAL most current edition). (Note: this selection is provided as a suggestion only. TDEC plans on issuing a similar manual in cooperation with the University of Tennessee's Water Resources Center in 2013.)

- (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 council, upon the recommendation of the Town of Signal Mountain, 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) <u>Land development</u>. 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 acre of total land disturbance may also be required to obtain authorization under this chapter if:
 - (i) The Town of Signal Mountain 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 Signal Mountain 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 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 Signal Mountain 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 Tennessee Department of Environment and Conservation (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 municipal separate storm sewer system (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 Signal Mountain. 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 stormwater 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) 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 stonnwater 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 stormwater 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) <u>General design performance criteria for permanent stormwater management</u>: 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 infiltrative capacity of soils at the site must be taken into account in selection of runoff reduction management measures.
 - (d) Incentive standards for re-developed 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 chapter is approved. The treatment technology must be designed, installed and maintained to continue to meet this performance standard.
- For projects that cannot meet one hundred percent (100%) of the runoff reduction requirements, the Town of Signal Mountain may allow runoff reduction measures to be implemented at another location within the same USGS twelve (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 twelve (12) digit HUC) and runoff reduction measures must be approved by the Town of Signal Mountain. The Town of Signal Mountain shall identify priority areas within the watershed in which mitigation projects can be completed. The Town of Signal Mountain 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 Signal Mountain 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) <u>Minimum volume control requirements</u>. (Note: the volume control requirements are by the MS4 and not the TDEC MS4 permit) in accordance with § 18-701(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 Signal Mountain 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 Signal Mountain 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) Topographic base map: 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) Calculations: 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) <u>Maintenance and repair plan</u>: 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) <u>Buffers and buffer zones</u>: Buffer and buffer zones shall be those buffers and buffer zones as those terms are defined in § 18-702(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 § 18-702(5) and (6).

- (ii) Construction on impaired or exceptional waters. The width of the buffer zone shall be 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 § 18-702(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. 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 fifteen feet (15') at any measured location. The buffer zone shall meet all the other applicable requirements of § 18-702(5) and (6). (as added by Ord. #2001-6, Dec. 2001, and replaced by Ord. #2014-10, Dec. 2014)

18-705. 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 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) <u>Inspection of stormwater management facilities</u>. Periodic inspections of facilities shall be performed, documented, and reported in accordance with this chapter, as detailed in § 18-706.

- (4) Records of installation and maintenance activities. Parties responsible for the operation and maintenance of a storm water 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. #2001-6, Dec. 2001, and replaced by Ord. #2003-7, Nov. 2003, and Ord. #2014-10, Dec. 2014)
- 18-706. <u>Existing locations and ongoing developments</u>. (1) On-site stormwater management facilities maintenance agreement:
 - (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.
 - (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 (v) 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 Signal Mountain. 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 Signal Mountain.
- (v) Provide that if the property is not maintained or repaired within the prescribed schedule, the Town of Signal Mountain 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 Signal Mountain's cost of performing the maintenance shall be a lien against the property.
- (2) Existing problem locations no maintenance agreement.
- (a) The Town of Signal Mountain 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 BMP's.

- (3) <u>Owner/operator inspections generally</u>. 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 Signal Mountain 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 (5) 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 email),
 - (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 deadlines and reinspection dates.
 - (c) Owners or operators shall maintain documentation of these inspections. The Town of Signal Mountain 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 § 18-705(2)(c)(i), (ii), (iii) and on a schedule acceptable to the Town of Signal Mountain.
 - (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 of Signal Mountain 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) <u>Corrections of problems subject to appeal</u>. Corrective measures imposed by the Town of Signal Mountain under this section are subject to appeal under § 18-710 of this chapter. (as added by Ord. #2001-6, Dec. 2001, and replaced by Ord. #2014-10, Dec. 2014)
- 18-707. <u>Illicit discharges</u>. (1) <u>Scope</u>. 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 municipal separate storm sewer system any discharge that is not composed entirely of stormwater or any discharge that flows from stormwater facility that is not inspected in accordance with § 18-706 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 municipal separate storm sewer system 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 groundwater;
 - (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 groundwater (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 COP 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) <u>Prohibition of illicit connections</u>. The construction, use, maintenance or continued existence of illicit connections to the municipal separate storm sewer system 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 municipal separate storm sewer system. 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 BMP's that have not been maintained and/or inspected in accordance with this ordinance shall be regarded as illicit.
- 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 municipal separate storm sewer system, 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 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 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) <u>No illegal dumping allowed</u>. 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. #2001-6, Dec. 2001, and replaced by Ord. #2003-7, Nov. 2003, and Ord. #2014-10, Dec. 2014)
- 18-708. <u>Enforcement</u>. (1) <u>Enforcement authority</u>. The Town of Signal Mountain shall have the authority to issue notices of violation and citations, and to impose the civil penalties provided in this section. Measures authorized include:

- (a) Verbal warnings At a minimum, verbal warnings must specify the nature of the violation and 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) <u>Notification of violation</u>. (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 Signal Mountain 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 Signal Mountain may serve upon such person written notice of the violation. Within ten (10) days max or as specified in the written 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 the Town of Signal Mountain. 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 Signal Mountain 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 paragraphs (d) and (e) below.

- (d) Show cause hearing. The Town of Signal Mountain 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 Signal Mountain finds that any person has violated or continues to violate this chapter or a permit or order issued thereunder, the town 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 Signal Mountain finds that any person has violated or continues to violate this chapter or any permit or order issued hereunder, the Town of Signal Mountain 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 Signal Mountain 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 Signal Mountain 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. #2001-6, Dec. 2001, deleted by Ord. #2003-7, Nov. 2003, and replaced by Ord. #2014-10, Dec. 2014)

- 18-709. <u>Penalties</u>. (1) <u>Violations</u>. 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 of Signal Mountain, shall be guilty of a civil offense.
- (2) <u>Penalties</u>. Under the authority provided in <u>Tennessee Code Annotated</u>, § 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 Signal Mountain 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) <u>Measuring civil penalties</u>. In assessing a civil penalty, the Town of Signal Mountain 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) <u>Referral to TDEC</u>. 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. #2001-6, Dec. 2001, and replaced by Ord. #2014-10, Dec. 2014)
- 18-710. <u>Appeals</u>. Pursuant to <u>Tennessee Code Annotated</u>, § 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 council.
- (1) Appeals to be in writing. The appeal shall be in writing and filed with the municipal recorder within fifteen (15) days after the civil penalty and/or damage assessment is served in any manner authorized by law.
- (2) <u>Public hearing</u>. Upon receipt of an appeal, the town council 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 council shall be final.
- (3) <u>Appealing decisions of the town council</u>. Any alleged violator may appeal a decision of the town council pursuant to the provisions of <u>Tennessee Code Annotated</u>, title 27, chapter 8. (as added by Ord. #2001-6, Dec. 2001, and replaced by Ord. #2014-10, Dec. 2014)
- 18-711. -- 18-743. <u>Deleted</u>. (as added by Ord. #2001-6, Dec. 2001, replaced by Ord. #2003-7, Nov. 2003, and deleted by Ord. #2014-10, Dec. 2014)

CHAPTER 8

STORMWATER UTILITY ORDINANCE¹

SECTION

- 18-801. Legislative findings and policy.
- 18-802. Creation of stormwater board and utility.
- 18-803. Definitions.
- 18-804. Funding of stormwater utility.
- 18-805. Stormwater fund.
- 18-806. Operating budget.
- 18-807. Stormwater user's fee established.
- 18-808. Rate.
- 18-809. Adjustment to stormwater user's fees.
- 18-810. Property owners to pay charges.
- 18-811. Billing procedure and penalties for late payment.
- 18-812. Appeals of fees.
- 18-801. <u>Legislative findings and policy</u>. The town council finds, determines and declares that the stormwater system which provides for the collection, treatment, storage and disposal of stormwater provides benefits and services to all property within the incorporated town limits. Such benefits include, but are not limited to, the provision of adequate systems of collection, conveyance, detention, treatment and release of stormwater; the reduction of hazards to property and life resulting from stormwater runoff; improvements in general health and welfare through reduction of undesirable stormwater conditions; and improvements to the water quality in the stormwater and surface water system and its receiving waters. (as added by Ord. #2002-4, Aug. 2002)
- 18-802. <u>Creation of stormwater board and utility</u>. For those purposes of the Federal Clean Water Act and of <u>Tennessee Code Annotated</u>, § 68-221-1011, <u>et seq.</u>, there is created a stormwater utility which shall consist of a stormwater operating board.

The stormwater operating board, under the legislative policy created by the stormwater management board, shall:

(1) Administer the acquisition, design, construction, maintenance and operation of the stormwater utility system, including capital improvements designated in the capital improvement program;

¹Appendix A "Calculating Stormwater User Fees" and Appendix B to Ord. #2002-4 are of record in the recorder's office.

- (2) Administer and enforce this ordinance and all regulations and procedures adopted relating to the design, construction, maintenance, operation and alteration of the utility stormwater system, including, but not limited to, the quantity, quality and/or the velocity of the stormwater conveyed thereby;
- (3) Advise the town council and other town departments on matters relating to the utility;
- (4) Prepare and revise a comprehensive drainage plan for adoption by the town council;
- (5) Review plans and approve or deny, inspect and accept extensions and connections to the system;
- (6) Enforce regulations to protect and maintain water quality and quantity within the system in compliance with water quality standards established by state, regional and/or federal agencies as now adopted or hereafter amended;
- (7) Annually analyze the cost of services and benefits provided, and the system and structure of fees, civil penalties and other revenues of the utility. (as added by Ord. #2002-4, Aug. 2002, and replaced by Ord. #2003-8, Nov. 2003)
- 18-803. <u>Definitions</u>. For the purpose of this ordinance, the following definitions shall apply: Words used in the singular shall include the plural, and the plural shall include the singular; 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) "Construction" means the erection, building, acquisition, alteration, reconstruction, improvement or extension of stormwater facilities; preliminary planning to determine the economic and engineering feasibility of stormwater facilities; the engineering, architectural, legal, fiscal and economic investigations and studies, surveys, designs, plans, working drawings, specifications, procedures, and other action necessary in the construction of stormwater facilities; and the inspection and supervision of the construction of stormwater facilities:
- (2) "Developed property" means real property which has been altered from its natural state by the creation or addition of impervious areas, by the addition of any buildings, structures, pavement or other improvements.
- (3) "Exempt property" means all properties of the federal, state, county, and Town of Signal Mountain governments, and any of their divisions or subdivisions, and property that does not discharge stormwater runoff into the stormwater or flood control facilities of the municipality.
- (4) "Fee" or "Stormwater user's fee" means the charge established under this ordinance and levied on owners or users of parcels or pieces of real property to fund the costs of stormwater management and of operating, maintaining, and improving the stormwater system in the town. The

stormwater user's fee is in addition to any other fee that the municipality has the right to charge under any other rule or regulation of the municipality.

- (5) "Fiscal year" means July 1 of a calendar year to June 30 of the next calendar year, both inclusive.
- (6) "Impervious surface area" means the number of square feet of horizontal surface covered by buildings and other impervious surfaces. All building measurements shall be made between exterior faces of walls, foundations, columns or other means of support or enclosure.
- (7) "Impervious surface" means a surface area which is compacted or covered with material that is resistant to infiltration by water, including, but not limited to, most conventionally surfaced streets, roofs, sidewalks, patios, driveways, parking lots, and any other oiled, graveled, compacted, or any other surface which impedes the natural infiltration of surface water.
- (8) "Other developed property" means developed property other than single-family residential property. Such property shall include, but not be limited to, commercial properties, industrial properties, parking lots, hospitals, schools, recreational and cultural facilities, hotels, officers, and churches.
- (9) "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.
- (10) "Property owner" means the property owner of record as listed in the county's assessment roll. A property owner includes any individual, corporation, firm, partnership, or group of individuals acting as a unit, and any trustee, receiver, or personal representative.
- (11) "Single family residential property" means a developed property which serves the primary purpose of providing a permanent dwelling to a single family. A single family detached dwelling or a townhouse containing an accessory apartment or second dwelling unit is included in this definition.
- (12) "Stormwater" means stormwater runoff, snow melt runoff, surface runoff, street wash waters related to street cleaning or maintenance, infiltration (other than infiltration contaminated by seepage from sanitary sewers or by other discharges) and drainage.
- (13) "Stormwater management fund" or "fund" means the fund created by this ordinance to operate, maintain, and improve the town's stormwater system.
- (14) "Stormwater management" means the planning, design, construction, regulation, improvement, repair, maintenance, and operation of facilities and programs relating to water, flood plains, flood control, grading erosion, tree conservation, and sediment control.
- (15) "Stormwater management board" means the Signal Mountain Town Council.
- (16) "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.

- (17) "User" shall mean the owner of record of property subject to the stormwater user's fee imposed by this ordinance.
- (18) "Stormwater appeals board" is the board established by Town of Signal Mountain Ord. #2001-6.1
- 19. "Stormwater operating board" is a committee that includes a minimum of the following:

Town manager

Town recorder

Town engineer

Director of public utilities

Designated police department representative

Designated fire department representative

Citizen representative (as added by Ord. #2002-4, Aug. 2002, and amended by Ord. #2003-8, Nov. 2003, and Ord. #2004-4, June 2004)

- 18-804. <u>Funding of stormwater utility</u>. Funding for the stormwater utility's activities may include, but not be limited to, the following:
 - (1) Stormwater user's fees.
- (2) Civil penalties imposed for the violation of the town's stormwater management ordinance.
 - (3) Stormwater permit and inspection fees.
- (4) Other funds or income obtained from federal, state, local, and private grants, or revolving funds, and from the Local Grant Public Obligations Act of 1986 (Tennessee Code Annotated, Title 9, Chapter 2).

To the extent that the stormwater drainage fees collected are insufficient to construct needed stormwater drainage facilities, the cost of the same may be paid from such town funds as may be determined by the town council. (as added by Ord. #2002-4, Aug. 2002)

- 18-805. Stormwater fund. All revenues generated by or on behalf of the stormwater utility, including stormwater user's fees, civil penalties for the violation of the town's stormwater management ordinance, permit and inspection fees, and interest earnings on those revenues, shall be deposited in a stormwater utility fund and used exclusively for the stormwater utility. (as added by Ord. #2002-4, Aug. 2002)
- 18-806. Operating budget. The town council shall adopt an operating budget for the stormwater utility each fiscal year. The operating budget shall set forth for such fiscal year the estimated revenues and the estimated costs for operations and maintenance, extension and replacement and debt service. (as added by Ord. #2002-4, Aug. 2002)

¹Title 18, chapter 7 of this municipal code was added by Ord. #2001-6.

18-807. <u>Stormwater user's fees established</u>. There shall be imposed on each and every developed property in the town, except exempt property, a stormwater user's fee, which shall be set from time to time by ordinance or resolution, and in the manner and amount prescribed by this ordinance.

Prior to establishing or amending user's fees, the town shall advertise its intent to do so by publishing notice in a newspaper of general circulation in the town at least thirty (30) days in advance of the meeting of the stormwater management board which shall consider the adoption of the fee or its amendment. (as added by Ord. #2002-4, Aug. 2002)

18-808. Rate. The stormwater management board shall establish the rate for the stormwater user's fee applicable in the town by ordinance. The rate of the stormwater user's fee shall be calculated to insure adequate revenues to fund the costs of stormwater management and to provide for the operation, maintenance, and capital improvements of the stormwater system in the town. The minimum stormwater user's fee shall be established at thirty-nine dollars and sixty cents (\$39.60) per year for an impervious area of three thousand nine hundred sixty (3,960) square feet or less. The established fee for parcels with impervious areas over three thousand nine hundred sixty (3,960) square feet shall be \$.0165 per square foot. Undeveloped, vegetated land will not be charged a stormwater fee within the town. (as added by Ord. #2002-4, Aug. 2002, as replaced by Ord. #2008-11, Aug. 2008)

18-809. Adjustment to stormwater user's fee. The stormwater utility shall have the right on its own initiative to adjust upward or downward the stormwater user's fees with respect to any property, based on any significant variation in the volume or rate of stormwater, or any significant variation in the quality of stormwater, emanating from the property, compared to other similar properties. In making determinations of the similarity of property, the stormwater utility shall take into consideration the location, geography, size, use, impervious area, stormwater facilities on the property, and any other factors that have a bearing on the variation. The stormwater utility shall make upward or downward adjustments in the stormwater user's fees, based on the approximate percentage of the variance of volume or rate of stormwater, or variance in the quality of stormwater, emanating from the property, compared to other similar properties. (as added by Ord. #2002-4, Aug. 2002)

18-810. <u>Property owners to pay charges</u>. The owner of each lot or parcel which directly or indirectly uses the stormwater system maintained by the town shall pay the stormwater user's fees and charges as provided in this ordinance. (as added by Ord. #2002-4, Aug. 2002)

- 18-811. <u>Billing procedure and penalties for late payment</u>. (1) The stormwater user's fee shall become effective at the rates set by a separate ordinance or resolution, shall be billed annually.
- (2) The stormwater charge shall be paid in person or by mail at the town hall and shall become delinquent on March 1, of each year following the effective date of this ordinance, after which the unpaid taxes shall bear interest at the same rate as any unpaid property taxes of the town.
- (3) <u>Penalties for late payment</u>. Stormwater user fees shall be subject to the same penalties as delinquent property taxes. The town shall be entitled to recover attorney's fees incurred in collecting delinquent stormwater fees. Any charge due under this ordinance which shall not be paid may be recovered at law by the town.
- (4) Pursuant to <u>Tennessee Code Annotated</u>, § 68-221-1112, each bill that shall contain stormwater charge shall contain the following statement in bold:

THIS TAX HAS BEEN MANDATED BY CONGRESS

(as added by Ord. #2002-4, Aug. 2002, and replaced by Ord. #2003-8, Nov. 2003)

- 18-812. Appeals of fees. (1) Generally. Any person who disagrees with the calculation of the stormwater user's fee, as provided in this ordinance, or who seeks a stormwater user's fee adjustment based upon stormwater management practices, may appeal such fee determination to the stormwater appeals board within thirty (30) days from the date of the last bill containing stormwater user's fee charges. Any appeal shall be filed in writing and shall state the grounds for the appeal. The stormwater appeals board chairman may request additional information from the appealing party.
- (2) <u>Upward or downward adjustments based on stormwater volume, rate or quality</u>. Stormwater user's fee adjustments for stormwater management practices may be considered for reductions in stormwater release rates and provision of additional storage volume; improvements in stormwater quality; reductions in runoff volume including discharging to a non-town drainage system; and properly designed constructed and maintained existing detention facilities. Based upon the information provided by the utility and the appealing party, the stormwater utility shall make a final calculation of the stormwater drainage fee. The stormwater utility shall notify the parties, in writing, of its decision. (as added by Ord. #2002-4, Aug. 2002)

FLOOD INSURANCE REGULATIONS

SECTION

- 18-901. Statutory authorization, findings of fact, purpose and objectives.
- 18-902. Definitions.
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18-901. Statutory authorization, findings of fact, purpose and objectives.

- (1) <u>Statutory authorization</u>. The Legislature of the State of Tennessee has in <u>Tennessee Code Annotated</u>, § 6-19-101 delegated the responsibility to units of local government to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the Town of Signal Mountain, Tennessee, Mayor and Town Council do ordain as follows:
 - (2) <u>Findings of fact</u>. (a) The Town of Signal Mountain, Tennessee, Mayor and its Legislative Body wishes to maintain eligibility in the National Flood Insurance Program (NFIP) and in order to do so must meet the NFIP regulations found in title 44 of the Code of Federal Regulations (C.F.R.), ch. 1, section 60.3.
 - (b) Areas of the Town of Signal Mountain, Tennessee are subject to periodic inundation which could result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.
 - (c) Flood losses are caused by the cumulative effect of obstructions in floodplains, causing increases in flood heights and velocities; by uses in flood hazard areas which are vulnerable to floods; or construction which is inadequately elevated, floodproofed, or otherwise unprotected from flood damages.
- (3) <u>Statement of purpose</u>. It is the purpose of this chapter to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas. This chapter is designed to:
 - (a) Restrict or prohibit uses which are vulnerable to flooding or erosion hazards, or which result in damaging increases in erosion, flood heights, or velocities;
 - (b) Require that uses vulnerable to floods, including community facilities, be protected against flood damage at the time of initial construction;

- (c) Control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of floodwaters;
- (d) Control filling, grading, dredging and other development which may increase flood damage or erosion;
- (e) Prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands.
- (4) <u>Objectives</u>. The objectives of this chapter are:
 - (a) To protect human life, health, safety and property;
- (b) To minimize expenditure of public funds for costly flood control projects;
- (c) To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
 - (d) To minimize prolonged business interruptions;
- (e) To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in floodprone areas;
- (f) To help maintain a stable tax base by providing for the sound use and development of floodprone areas to minimize blight in flood areas:
- (g) To ensure that potential homebuyers are notified that property is in a floodprone area;
- (h) To maintain eligibility for participation in the NFIP. (as added by Ord. #2010-13, July 2010)
- 18-902. <u>Definitions</u>. Unless specifically defined below, words or phrases used in this chapter shall be interpreted as to give them the meaning they have in common usage and to give this chapter its most reasonable application given its stated purpose and objectives.
- 1. "Accessory structure." A subordinate structure to the principal structure on the same lot and, for the purpose of this chapter, shall conform to the following:
 - (a) Accessory structures shall only be used for parking of vehicles and storage.
 - (b) Accessory structures shall be designed to have low flood damage potential.
 - (c) Accessory structures shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters.
 - (d) Accessory structures shall be firmly anchored to prevent flotation, collapse, and lateral movement, which otherwise may result in damage to other structures.

- (e) Utilities and service facilities such as electrical and heating equipment shall be elevated or otherwise protected from intrusion of floodwaters.
- 2. "Addition (to an existing building)." Any walled and roofed expansion to the perimeter or height of a building.
- 3. "Appeal." A request for a review of the local enforcement officer's interpretation of any provision of this chapter or a request for a variance.
- 4. "Area of shallow flooding" means a designated AO or AH Zone on a community's Flood Insurance Rate Map (FIRM) with one percent (1%) or greater annual chance of flooding to an average depth of one to three feet (1'--3') where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate; and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.
- 5. "Area of special flood-related erosion hazard." The land within a community which is most likely to be subject to severe flood-related erosion losses. The area may be designated as Zone E on the Flood Hazard Boundary Map (FHBM). After the detailed evaluation of the special flood-related erosion hazard area in preparation for publication of the FIRM, Zone E may be further refined.
 - 6. "Area of special flood hazard." See "special flood hazard area."
- 7. "Base flood." The flood having a one percent (1%) chance of being equaled or exceeded in any given year. This term is also referred to as the 100-year flood or the one percent (1%) annual chance flood.
- 8. "Basement." Any portion of a building having its floor subgrade (below ground level) on all sides.
 - 9. "Building." See "structure."
- 10. "Development." Any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavating, drilling operations, or storage of equipment or materials.
- 11. "Elevated building." A non-basement building built to have the lowest floor of the lowest enclosed area elevated above the ground level by means of solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of floodwater, pilings, columns, piers, or shear walls adequately anchored so as not to impair the structural integrity of the building during a base flood event.
- 12. "Emergency flood insurance program" or "emergency program." The program as implemented on an emergency basis in accordance with section 1336 of the Act. It is intended as a program to provide a first layer amount of insurance on all insurable structures before the effective date of the initial FIRM.
- 13. "Erosion." The process of the gradual wearing away of land masses. This peril is not "per se" covered under the program.

- 14. "Exception." A waiver from the provisions of this chapter which relieves the applicant from the requirements of a rule, regulation, order or other determination made or issued pursuant to this chapter.
- 15. "Existing construction." Any structure for which the "start of construction" commenced before the effective date of the initial floodplain management code or ordinance adopted by the community as a basis for that community's participation in the NFIP.
- 16. "Existing manufactured home park or subdivision." A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, final site grading or the pouring of concrete pads) is completed before the effective date of the first floodplain management code or ordinance adopted by the community as a basis for that community's participation in the NFIP.
 - 17. "Existing structures." See "existing construction."
- 18. "Expansion to an existing manufactured home park or subdivision." The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).
- 19. "Flood" or "flooding." A general and temporary condition of partial or complete inundation of normally dry land areas from:
 - (a) The overflow of inland or tidal waters.
 - (b) The unusual and rapid accumulation or runoff of surface waters from any source.
- 20. "Flood elevation determination." A determination by the Federal Emergency Management Agency (FEMA) of the water surface elevations of the base flood, that is, the flood level that has a one percent (1%) or greater chance of occurrence in any given year.
- 21. "Flood elevation study." An examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudslide (i.e., mudflow) or flood-related erosion hazards.
- 22. "Flood Hazard Boundary Map (FHBM)." An official map of a community, issued by FEMA, where the boundaries of areas of special flood hazard have been designated as Zone A.
- 23. "Flood Insurance Rate Map (FIRM)." An official map of a community, issued by FEMA, delineating the areas of special flood hazard or the risk premium zones applicable to the community.
- 24. "Flood insurance study" is the official report provided by FEMA, evaluating flood hazards and containing flood profiles and water surface elevation of the base flood.
- 25. "Floodplain " or "floodprone area." Any land area susceptible to being inundated by water from any source (see definition of "flooding").

- 26. "Floodplain management." The operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works and floodplain management regulations.
- 27. "Flood protection system." Those physical structural works for which funds have been authorized, appropriated, and expended and which have been constructed specifically to modify flooding in order to reduce the extent of the area within a community subject to a "special flood hazard" and the extent of the depths of associated flooding. Such a system typically includes hurricane tidal barriers, dams, reservoirs, levees or dikes. These specialized flood modifying works are those constructed in conformance with sound engineering standards.
- 28. "Floodproofing." Any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities and structures and their contents.
- 29. "Flood-related erosion." The collapse or subsidence of land along the shore of a lake or other body of water as a result of undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a flash flood, or by some similarly unusual and unforeseeable event which results in flooding.
- 30. "Flood-related erosion area" or "flood-related erosion prone area." A land area adjoining the shore of a lake or other body of water, which due to the composition of the shoreline or bank and high water levels or wind-driven currents, is likely to suffer flood-related erosion damage.
- 31. "Flood-related erosion area management." The operation of an overall program of corrective and preventive measures for reducing flood-related erosion damage, including but not limited to emergency preparedness plans, flood-related erosion control works and floodplain management regulations.
- 32. "Floodway." The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.
- 33. "Freeboard." A factor of safety usually expressed in feet above a flood level for purposes of floodplain management. "Freeboard" tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, blockage of bridge or culvert openings, and the hydrological effect of urbanization of the watershed.
- 34. "Functionally dependent use." A use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for

the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

- 35. "Highest adjacent grade." The highest natural elevation of the ground surface, prior to construction, adjacent to the proposed walls of a structure.
 - 36. "Historic structure." Any structure that is:
 - (a) Listed individually in the National Register of Historic Places (a listing maintained by the U.S. Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
 - (b) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
 - (c) Individually listed on the Tennessee inventory of historic places and determined as eligible by states with historic preservation programs which have been approved by the Secretary of the Interior; or
 - (d) Individually listed on the Town of Signal Mountain, Tennessee inventory of historic places and determined as eligible by communities with historic preservation programs that have been certified either:
 - (i) By the approved Tennessee program as determined by the Secretary of the Interior; or
 - (ii) Directly by the Secretary of the Interior.
- 37. "Levee." A man-made structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control or divert the flow of water so as to provide protection from temporary flooding.
- 38. "Levee system." A flood protection system which consists of a levee, or levees, and associated structures, such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.
- 39. "Lowest floor." The lowest floor of the lowest enclosed area, including a basement. An unfinished or flood resistant enclosure used solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this chapter.
- 40. "Manufactured home." A structure, transportable in one (1) or more sections, which is built on a permanent chassis and designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle."

- 41. "Manufactured home park or subdivision." A parcel (or contiguous parcels) of land divided into two (2) or more manufactured home lots for rent or sale.
- 42. "Map." The Flood Hazard Boundary Map (FHBM) or the Flood Insurance Rate Map (FIRM) for a community issued by FEMA.
- 43. "Mean sea level." The average height of the sea for all stages of the tide. It is used as a reference for establishing various elevations within the floodplain. For the purposes of this chapter, the term is synonymous with the National Geodetic Vertical Datum (NGVD) of 1929, the North American Vertical Datum (NAVD) of 1988, or other datum, to which Base Flood Elevations shown on a community's flood insurance rate map are referenced.
- 44. "National Geodetic Vertical Datum (NGVD)." As corrected in 1929, a vertical control used as a reference for establishing varying elevations within the floodplain.
- 45. "New construction." Any structure for which the "start of construction" commenced on or after the effective date of the initial floodplain management ordinance and includes any subsequent improvements to such structure.
- 46. "New manufactured home park or subdivision." A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of the ordinance comprising this chapter or the effective date of the initial floodplain management ordinance and includes any subsequent improvements to such structure.
- 47. "North American Vertical Datum (NAVD)." As corrected in 1988, a vertical control used as a reference for establishing varying elevations within the floodplain.
 - 48. "100-year flood." See "base flood."
- 49. "Person." Includes any individual or group of individuals, corporation, partnership, association, or any other entity, including state and local governments and agencies.
- 50. "Reasonably safe from flooding." Base flood waters will not inundate the land or damage structures to be removed from the special flood hazard area and that any subsurface waters related to the base flood will not damage existing or proposed structures.
 - 51. "Recreational vehicle." A vehicle which is:
 - (a) Built on a single chassis;
 - (b) Four hundred (400) square feet or less when measured at the largest horizontal projection;
 - (c) Designed to be self-propelled or permanently towable by a light duty truck;

- (d) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.
- 52. "Regulatory floodway." The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.
- 53. "Riverine." Relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.
- 54. "Special flood hazard area" is the land in the floodplain within a community subject to a one percent (1%) or greater chance of flooding in any given year. The area may be designated as Zone A on the FHBM. After detailed ratemaking has been completed in preparation for publication of the FIRM, Zone A usually is refined into Zones A, AO, AH, A1-30, AE or A99.
- 55. "Special hazard area." An area having special flood, mudslide (i.e., mudflow) and/or flood-related erosion hazards, and shown on an FHBM or FIRM as Zone A, AO, A1-30, AE, A99, or AH.
- "Start of construction." Includes substantial improvement, and 56. means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within one hundred eighty (180) days of the permit date. The actual start means either the first placement of permanent construction of a structure (including a manufactured home) on a site, such as the pouring of slabs or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; and includes the placement of a manufactured home on a foundation. Permanent construction does not include initial land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds, not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.
- 57. "State coordinating agency." The Tennessee Department of Economic and Community Development's Local Planning Assistance Office, as designated by the Governor of the State of Tennessee at the request of FEMA to assist in the implementation of the NFIP for the state.
- 58. "Structure." For purposes of this chapter, means a walled and roofed building, including a gas or liquid storage tank that is principally above ground, as well as a manufactured home.
- 59. "Substantial damage." Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged

condition would equal or exceed fifty percent (50%) of the market value of the structure before the damage occurred.

- 60. (a) "Substantial improvement." Any reconstruction, rehabilitation, addition, alteration or other improvement of a structure in which the cost equals or exceeds fifty percent (50%) of the market value of the structure before the "start of construction" of the initial improvement. This term includes structures which have incurred "substantial damage," regardless of the actual repair work performed. The market value of the structure should be:
 - (i) The appraised value of the structure prior to the start of the initial improvement; or
 - (ii) In the case of substantial damage, the value of the structure prior to the damage occurring.
 - (b) The term does not, however, include either:
 - (i) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been pre-identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions and not solely triggered by an improvement or repair project; or
 - (ii) Any alteration of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a "historic structure."
- 61. "Substantially improved existing manufactured home parks or subdivisions" is where the repair, reconstruction, rehabilitation or improvement of the streets, utilities and pads equals or exceeds fifty percent (50%) of the value of the streets, utilities and pads before the repair, reconstruction or improvement commenced.
- 62. "Variance" is a grant of relief from the requirements of this chapter.
- 63. "Violation." The failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certification, or other evidence of compliance required in this chapter is presumed to be in violation until such time as that documentation is provided.
- 64. "Water surface elevation." The height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, the North American Vertical Datum (NAVD) of 1988, or other datum, where specified, of floods of various magnitudes and frequencies in the floodplains of riverine areas. (as added by Ord. #2010-13, July 2010)
- 18-903. <u>General provisions</u>. (1) <u>Application</u>. This chapter shall apply to all areas within the incorporated area of the Town of Signal Mountain, Tennessee.

- (2) <u>Basis for establishing the areas of special flood hazard</u>. The areas of special flood hazard in the Town of Signal Mountain, Tennessee, as identified by FEMA, and in its November 7, 2002, Flood Insurance Study (FIS) and Flood Insurance Rate Map (FIRM), Hamilton County 47065 Community ID 470078 and Panel Numbers 0195, 0211, 0212, 0213, 0214, 0326, 0327, dated November 7, 2002, along with all supporting technical data, are adopted by reference and declared to be a part of this chapter.
- (3) Requirement for development permit. A development permit shall be required in conformity with this chapter prior to the commencement of any development activities.
- (4) <u>Compliance</u>. No land, structure or use shall hereafter be located, extended, converted or structurally altered without full compliance with the terms of this chapter and other applicable regulations.
- (5) <u>Abrogation and greater restrictions</u>. This chapter is not intended to repeal, abrogate, or impair any existing easements, covenants or deed restrictions. However, where this chapter conflicts or overlaps with another regulatory instrument, whichever imposes the more stringent restrictions shall prevail.
- (6) <u>Interpretation</u>. In the interpretation and application of this chapter, all provisions shall be:
 - (a) Considered as minimum requirements;
 - (b) Liberally construed in favor of the governing body; and
 - (c) Deemed neither to limit nor repeal any other powers granted under Tennessee statutes.
- (7) Warning and disclaimer of liability. The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This chapter does not imply that land outside the areas of special flood hazard or uses permitted within such areas will be free from flooding or flood damages. This chapter shall not create liability on the part of the Town of Signal Mountain, Tennessee or by any officer or employee thereof for any flood damages that result from reliance on this chapter or any administrative decision lawfully made hereunder.
- (8) Penalties for violation. Violation of the provisions of this chapter or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance shall constitute a misdemeanor punishable as other misdemeanors as provided by law. Any person who violates this chapter or fails to comply with any of its requirements shall, upon adjudication therefore, be fined as prescribed by Tennessee statutes, and in addition, shall pay all costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the Town of Signal Mountain,

Tennessee from taking such other lawful actions to prevent or remedy any violation. (as added by Ord. #2010-13, July 2010)

- 18-904. <u>Administration</u>. (1) <u>Designation of ordinance administrator</u>. The building inspector is hereby appointed as the administrator to implement the provisions of the ordinance comprising this chapter.
- (2) <u>Permit procedures</u>. Application for a development permit shall be made to the administrator on forms furnished by the community prior to any development activities. The development permit may include, but is not limited to the following: plans in duplicate drawn to scale and showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, earthen fill placement, storage of materials or equipment, and drainage facilities. Specifically, the following information is required:
 - (a) Application stage. (i) Elevation in relation to mean sea level of the proposed lowest floor, including basement, of all buildings where base flood elevations are available, or to certain height above the highest adjacent grade when applicable under this chapter.
 - (ii) Elevation in relation to mean sea level to which any non-residential building will be floodproofed where base flood elevations are available, or to certain height above the highest adjacent grade when applicable under this chapter.
 - (iii) A FEMA floodproofing certificate from a Tennessee registered professional engineer or architect that the proposed non-residential floodproofed building will meet the floodproofing criteria in § 18-905(1) and (2).
 - (iv) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.
 - (b) Construction stage. Within AE Zones, where base flood elevation data is available, any lowest floor certification made relative to mean sea level shall be prepared by or under the direct supervision of, a Tennessee registered land surveyor and certified by same. The administrator shall record the elevation of the lowest floor on the development permit. When floodproofing is utilized for a non-residential building, said certification shall be prepared by, or under the direct supervision of, a Tennessee registered professional engineer or architect and certified by same.

Within approximate A Zones, where base flood elevation data is not available, the elevation of the lowest floor shall be determined as the measurement of the lowest floor of the building relative to the highest adjacent grade. The administrator shall record the elevation of the lowest floor on the development permit. When floodproofing is utilized for a non-residential building, said certification shall be prepared by, or under

the direct supervision of, a Tennessee registered professional engineer or architect and certified by same.

For all new construction and substantial improvements, the permit holder shall provide to the administrator an as-built certification of the lowest floor elevation or floodproofing level upon the completion of the lowest floor or floodproofing.

Any work undertaken prior to submission of the certification shall be at the permit holder's risk. The administrator shall review the above-referenced certification data. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further work being allowed to proceed. Failure to submit the certification or failure to make said corrections required hereby, shall be cause to issue a stop-work order for the project.

- (3) <u>Duties and responsibilities of the administrator</u>. Duties of the administrator shall include, but not be limited to, the following:
 - (a) Review all development permits to assure that the permit requirements of this chapter have been satisfied, and that proposed building sites will be reasonably safe from flooding.
 - (b) Review proposed development to assure that all necessary permits have been received from those governmental agencies from which approval is required by federal or state law, including section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334.
 - (c) Notify adjacent communities and the Tennessee Department of Economic and Community Development, Local Planning Assistance Office, prior to any alteration or relocation of a watercourse and submit evidence of such notification to FEMA.
 - (d) For any altered or relocated watercourse, submit engineering data/analysis within six (6) months to FEMA to ensure accuracy of community FIRMs through the letter of map revision process.
 - (e) Assure that the flood carrying capacity within an altered or relocated portion of any watercourse is maintained.
 - (f) Record the elevation, in relation to mean sea level or the highest adjacent grade, where applicable, of the lowest floor (including basement) of all new and substantially improved buildings, in accordance with § 18-904(2).
 - (g) Record the actual elevation, in relation to mean sea level or the highest adjacent grade, where applicable to which the new and substantially improved buildings have been floodproofed, in accordance with § 18-904(2).
 - (h) When floodproofing is utilized for a non-residential structure, obtain certification of design criteria from a Tennessee registered professional engineer or architect, in accordance with § 18-904(2).

- (i) Where interpretation is needed as to the exact location of boundaries of the areas of special flood hazard (for example, where there appears to be a conflict between a mapped boundary and actual field conditions), make the necessary interpretation. Any person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this chapter.
- (j) When base flood elevation data and floodway data have not been provided by FEMA, obtain, review, and reasonably utilize any base flood elevation and floodway data available from a federal, state, or other sources, including data developed as a result of these regulations, as criteria for requiring that new construction, substantial improvements, or other development in Zone A on the Town of Signal Mountain, Tennessee FIRM meet the requirements of this chapter.
- (k) Maintain all records pertaining to the provisions of this chapter in the office of the administrator and shall be open for public inspection. Permits issued under the provisions of this chapter shall be maintained in a separate file or marked for expedited retrieval within combined files. (as added by Ord. #2010-13, July 2010)
- 18-905. <u>Provisions for flood hazard reduction</u>. (1) <u>General standards</u>. In all areas of special flood hazard, the following provisions are required:
- (a) New construction and substantial improvements shall be anchored to prevent flotation, collapse and lateral movement of the structure;
- (b) Manufactured homes shall be installed using methods and practices that minimize flood damage. They must be elevated and anchored to prevent flotation, collapse and lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable State of Tennessee and local anchoring requirements for resisting wind forces;
- (c) New construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage;
- (d) New construction and substantial improvements shall be constructed by methods and practices that minimize flood damage;
- (e) All electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;
- (f) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;

- (g) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters;
- (h) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding;
- (i) Any alteration, repair, reconstruction or improvements to a building that is in compliance with the provisions of this chapter, shall meet the requirements of "new construction" as contained in this chapter;
- (j) Any alteration, repair, reconstruction or improvements to a building that is not in compliance with the provision of this chapter, shall be undertaken only if said non-conformity is not further extended or replaced;
- (k) All new construction and substantial improvement proposals shall provide copies of all necessary federal and state permits, including section 404 of the Federal Water Pollution Control Act amendments of 1972, 33 U.S.C. 1334;
- (l) All subdivision proposals and other proposed new development proposals shall meet the standards of § 18-905(2);
- (m) When proposed new construction and substantial improvements are partially located in an area of special flood hazard, the entire structure shall meet the standards for new construction;
- (n) When proposed new construction and substantial improvements are located in multiple flood hazard risk zones or in a flood hazard risk zone with multiple base flood elevations, the entire structure shall meet the standards for the most hazardous flood hazard risk zone and the highest base flood elevation.
- (2) <u>Specific standards</u>. In all areas of special flood hazard, the following provisions, in addition to those set forth in § 18-905(1), are required:
 - (a) Residential structures. In AE Zones where base flood elevation data is available, new construction and substantial improvement of any residential building (or manufactured home) shall have the lowest floor, including basement, elevated to no lower than one foot (1') above the base flood elevation. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate equalization of flood hydrostatic forces on both sides of exterior walls shall be provided in accordance with the standards of this section: "Enclosures."

Within approximate A Zones where base flood elevations have not been established and where alternative data is not available, the administrator shall require the lowest floor of a building to be elevated to a level at least three feet (3') above the highest adjacent grade (as defined in § 18-902). Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate equalization of flood

hydrostatic forces on both sides of exterior walls shall be provided in accordance with the standards of this section: "Enclosures."

(b) Non-residential structures. In AE Zones, where base flood elevation data is available, new construction and substantial improvement of any commercial, industrial, or non-residential building, shall have the lowest floor, including basement, elevated or floodproofed to no lower than one foot (1') above the level of the base flood elevation. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate equalization of flood hydrostatic forces on both sides of exterior walls shall be provided in accordance with the standards of this section: "Enclosures."

In approximate A Zones, where base flood elevations have not been established and where alternative data is not available, new construction and substantial improvement of any commercial, industrial, or non-residential building shall have the lowest floor, including basement, elevated or floodproofed to no lower than three feet (3') above the highest adjacent grade (as defined in § 18-902). Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate equalization of flood hydrostatic forces on both sides of exterior walls shall be provided in accordance with the standards of this section: "Enclosures."

Non-residential buildings located in all A Zones may be floodproofed, in lieu of being elevated, provided that all areas of the building below the required elevation are watertight, with walls substantially impermeable to the passage of water, and are built with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. A Tennessee registered professional engineer or architect shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions above, and shall provide such certification to the administrator as set forth in § 18-904(2).

- (c) Enclosures. All new construction and substantial improvements that include fully enclosed areas formed by foundation and other exterior walls below the lowest floor that are subject to flooding, shall be designed to preclude finished living space and designed to allow for the entry and exit of flood waters to automatically equalize hydrostatic flood forces on exterior walls.
 - (i) Designs for complying with this requirement must either be certified by a Tennessee professional engineer or architect or meet or exceed the following minimum criteria:
 - (A) Provide a minimum of two (2) openings having a total net area of not less than one (1) square foot of enclosed area subject to flooding;

- (B) The bottom of all openings shall be no higher than one foot (1') above the finished grade;
- (C) Openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwaters in both directions.
- (ii) The enclosed area shall be the minimum necessary to allow for parking of vehicles, storage or building access.
- (iii) The interior portion of such enclosed area shall not be finished or partitioned into separate rooms in such a way as to impede the movement of floodwaters and all such partitions shall comply with the provisions of § 18-905(2).
- (d) Standards for manufactured homes and recreational vehicles. (i) All manufactured homes placed, or substantially improved, on:
 - (A) Individual lots or parcels;
 - (B) In expansions to existing manufactured home parks or subdivisions; or
- (C) In new or substantially improved manufactured home parks or subdivisions; must meet all the requirements of new construction.
- (ii) All manufactured homes placed or substantially improved in an existing manufactured home park or subdivision must be elevated so that either:
 - (A) In AE Zones, with base flood elevations, the lowest floor of the manufactured home is elevated on a permanent foundation to no lower than one foot (1') above the level of the base flood elevation; or
 - (B) In approximate A Zones, without base flood elevations, the manufactured home chassis is elevated and supported by reinforced piers (or other foundation elements of at least equivalent strength) that are at least three feet (3') in height above the highest adjacent grade (as defined in § 18-902).
- (iii) Any manufactured home, which has incurred "substantial damage" as the result of a flood, must meet the standards of § 18-905(1) and (2).
- (iv) All manufactured homes must be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.
- (v) All recreational vehicles placed in an identified special flood hazard area must either:
 - (A) Be on the site for fewer than one hundred eighty (180) consecutive days;

- (B) Be fully licensed and ready for highway use (a recreational vehicle is ready for highway use if it is licensed, on its wheels or jacking system, attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached structures or additions); or
- (C) The recreational vehicle must meet all the requirements for new construction.
- (d) Standards for subdivisions and other proposed new development proposals. Subdivisions and other proposed new developments, including manufactured home parks, shall be reviewed to determine whether such proposals will be reasonably safe from flooding.
 - (i) All subdivision and other proposed new development proposals shall be consistent with the need to minimize flood damage.
 - (ii) All subdivision and other proposed new development proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize or eliminate flood damage.
 - (iii) All subdivision and other proposed new development proposals shall have adequate drainage provided to reduce exposure to flood hazards.
 - (iv) In all approximate A Zones require that all new subdivision proposals and other proposed developments (including proposals for manufactured home parks and subdivisions) greater than fifty (50) lots or five (5) acres, whichever is the lesser, include within such proposals base flood elevation data (see § 18-905(5)).
- (3) Standards for special flood hazard areas with established base flood elevations and with floodways designated. Located within the special flood hazard areas established in § 18-903(2), are areas designated as floodways. A floodway may be an extremely hazardous area due to the velocity of floodwaters, debris or erosion potential. In addition, the area must remain free of encroachment in order to allow for the discharge of the base flood without increased flood heights and velocities. Therefore, the following provisions shall apply:
 - (a) Encroachments are prohibited, including earthen fill material, new construction, substantial improvements or other development within the regulatory floodway. Development may be permitted however, provided it is demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practices that the cumulative effect of the proposed encroachments or new development shall not result in any increase in the water surface elevation of the base flood elevation, velocities, or floodway widths during the occurrence of a base flood discharge at any point within the community. A Tennessee registered professional engineer must provide

supporting technical data, using the same methodologies as in the effective Flood Insurance Study for the Town of Signal Mountain, Tennessee and certification, thereof.

- (b) New construction and substantial improvements of buildings, where permitted, shall comply with all applicable flood hazard reduction provisions of § 18-905(1) and (2).
- (4) <u>Standards for areas of special flood hazard Zones AE with established base flood elevations but without floodways designated</u>. Located within the special flood hazard areas established in § 18-903(2), where streams exist with base flood data provided but where no floodways have been designated (Zones AE), the following provisions apply:
 - (a) No encroachments, including fill material, new construction and substantial improvements shall be located within areas of special flood hazard, unless certification by a Tennessee registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot (1') at any point within the community. The engineering certification should be supported by technical data that conforms to standard hydraulic engineering principles.
 - (b) New construction and substantial improvements of buildings, where permitted, shall comply with all applicable flood hazard reduction provisions of § 18-905(1) and (2).
- (5) <u>Standards for streams without established base flood elevations and floodways (A Zones)</u>. Located within the special flood hazard areas established in § 18-903(2), where streams exist, but no base flood data has been provided and where a floodway has not been delineated, the following provisions shall apply:
 - (a) The administrator shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from any federal, state, or other sources, including data developed as a result of these regulations (see (b) below), as criteria for requiring that new construction, substantial improvements, or other development in approximate A Zones meet the requirements of § 18-905(1) and (2).
 - (b) Require that all new subdivision proposals and other proposed developments (including proposals for manufactured home parks and subdivisions) greater than fifty (50) lots or five (5) acres, whichever is the lesser, include within such proposals base flood elevation data.
 - (c) Within approximate A Zones, where base flood elevations have not been established and where such data is not available from other sources, require the lowest floor of a building to be elevated or floodproofed to a level of at least three feet (3') above the highest adjacent grade (as defined in § 18-902). All applicable data including elevations or

floodproofing certifications shall be recorded as set forth in § 18-904(2). Openings sufficient to facilitate automatic equalization of hydrostatic flood forces on exterior walls shall be provided in accordance with the standards of § 18-905(2).

- (d) Within approximate A Zones, where base flood elevations have not been established and where such data is not available from other sources, no encroachments, including structures or fill material, shall be located within an area equal to the width of the stream or twenty feet (20'), whichever is greater, measured from the top of the stream bank, unless certification by a Tennessee registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot (1') at any point within the Town of Signal Mountain, Tennessee. The engineering certification should be supported by technical data that conforms to standard hydraulic engineering principles.
- (e) New construction and substantial improvements of buildings, where permitted, shall comply with all applicable flood hazard reduction provisions of § 18-905(1) and (2). Within approximate A Zones, require that those subsections of § 18-905(2) dealing with the alteration or relocation of a watercourse, assuring watercourse carrying capacities are maintained and manufactured homes provisions are complied with as required.
- (6) Standards for areas of shallow flooding (AO and AH Zones). Located within the special flood hazard areas established in § 18-903(2), are areas designated as shallow flooding areas. These areas have special flood hazards associated with base flood depths of one to three feet (1'--3') where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate; therefore, the following provisions, in addition to those set forth in § 18-905(1) and (2) apply:
 - (a) All new construction and substantial improvements of residential and non-residential buildings shall have the lowest floor, including basement, elevated to at least one foot (1') above as many feet as the depth number specified on the FIRMs, in feet, above the highest adjacent grade. If no flood depth number is specified on the FIRM, the lowest floor, including basement, shall be elevated to at least three feet (3') above the highest adjacent grade. Openings sufficient to facilitate automatic equalization of hydrostatic flood forces on exterior walls shall be provided in accordance with standards of § 18-905(2).
 - (b) All new construction and substantial improvements of non-residential buildings may be floodproofed in lieu of elevation. The structure together with attendant utility and sanitary facilities must be floodproofed and designed watertight to be completely floodproofed to at

least one foot (1') above the flood depth number specified on the FIRM, with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. If no depth number is specified on the FIRM, the structure shall be floodproofed to at least three feet (3') above the highest adjacent grade. A Tennessee registered professional engineer or architect shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this chapter and shall provide such certification to the administrator as set forth above and as required in accordance with § 18-904(2).

- (c) Adequate drainage paths shall be provided around slopes to guide floodwaters around and away from proposed structures.
- (7) <u>Standards for areas protected by flood protection system (A99 Zones)</u>. Located within the areas of special flood hazard established in § 18-903(2), are areas of the 100-year floodplain protected by a flood protection system but where base flood elevations have not been determined. Within these areas (A99 Zones) all provisions of §§ 18-904 and 18-905 shall apply.
- (8) <u>Standards for unmapped streams</u>. Located within the Town of Signal Mountain, Tennessee, are unmapped streams where areas of special flood hazard are neither indicated nor identified. Adjacent to such streams, the following provisions shall apply:
 - (a) No encroachments including fill material or other development including structures shall be located within an area of at least equal to twice the width of the stream, measured from the top of each stream bank, unless certification by a Tennessee registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot (1') at any point within the locality.
 - (b) When a new flood hazard risk zone, and base flood elevation and floodway data is available, new construction and substantial improvements shall meet the standards established in accordance with §§ 18-904 and 18-905. (as added by Ord. #2010-13, July 2010)

18-906. <u>Variance procedures</u>. (1) <u>Board of floodplain review</u>.

(a) Creation and appointment. A board of floodplain review is hereby established which shall consist of three (3) members appointed by the chief executive officer. The term of membership shall be four (4) years except that the initial individual appointments to the board of floodplain review shall be terms of one (1), two (2), and three (3) years, respectively. Vacancies shall be filled for any unexpired term by the chief executive officer.

- (b) Procedure. Meetings of the board of floodplain review shall be held at such times as the board shall determine. All meetings of the board of floodplain review shall be open to the public. The board of floodplain review shall adopt rules of procedure and shall keep records of applications and actions thereof, which shall be a public record. Compensation of the members of the board of floodplain review shall be set by the legislative body.
- Appeals: how taken. An appeal to the board of floodplain review may be taken by any person, firm or corporation aggrieved or by any governmental officer, department, or bureau affected by any decision of the administrator based in whole or in part upon the provisions of this chapter. Such appeal shall be taken by filing with the board of floodplain review a notice of appeal, specifying the grounds thereof. In all cases where an appeal is made by a property owner or other interested party, a fee of fifty dollars (\$50.00) for the cost of publishing a notice of such hearings shall be paid by the appellant. The administrator shall transmit to the board of floodplain review all papers constituting the record upon which the appeal action was taken. The board of floodplain review shall fix a reasonable time for the hearing of the appeal, give public notice thereof, as well as due notice to parties in interest and decide the same within a reasonable time which shall not be more than thirty (30) days from the date of the hearing. At the hearing, any person or party may appear and be heard in person or by agent or by attorney.
- (d) Powers. The board of floodplain review shall have the following powers:
 - (i) Administrative review. To hear and decide appeals where it is alleged by the applicant that there is error in any order, requirement, permit, decision, determination, or refusal made by the administrator or other administrative official in carrying out or enforcement of any provisions of this chapter.
 - (ii) Variance procedures. In the case of a request for a variance the following shall apply:
 - (A) The Town of Signal Mountain, Tennessee Board of Floodplain Review shall hear and decide appeals and requests for variances from the requirements of this chapter.
 - (B) Variances may be issued for the repair or rehabilitation of historic structures as defined herein, upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary deviation from the requirements of this chapter to preserve the historic character and design of the structure.

- (iii) In passing upon such applications, the board of floodplain review shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this chapter, and:
 - (A) The danger that materials may be swept onto other property to the injury of others;
 - (B) The danger to life and property due to flooding or erosion;
 - (C) The susceptibility of the proposed facility and its contents to flood damage;
 - (D) The importance of the services provided by the proposed facility to the community;
 - (E) The necessity of the facility to a waterfront location, in the case of a functionally dependent use;
 - (F) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
 - (G) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
 - (H) The safety of access to the property in times of flood for ordinary and emergency vehicles;
 - (I) The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site;
 - (J) The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, water systems, and streets and bridges.
- (iv) Upon consideration of the factors listed above, and the purposes of this chapter, the board of floodplain review may attach such conditions to the granting of variances, as it deems necessary to effectuate the purposes of this chapter.
- (v) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- (2) <u>Conditions for variances</u>. (a) Variances shall be issued upon a determination that the variance is the minimum relief necessary, considering the flood hazard and the factors listed in § 18-906(1).
- (b) Variances shall only be issued upon: a showing of good and sufficient cause, a determination that failure to grant the variance would result in exceptional hardship; or a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisance, cause fraud

on or victimization of the public, or conflict with existing local laws or ordinances.

- (c) Any applicant to whom a variance is granted shall be given written notice that the issuance of a variance to construct a structure below the base flood elevation will result in increased premium rates for flood insurance (as high as twenty-five dollars (\$25.00) for one hundred dollars (\$100.00)) coverage, and that such construction below the base flood elevation increases risks to life and property.
- (d) The administrator shall maintain the records of all appeal actions and report any variances to FEMA upon request. (as added by Ord. #2010-13, July 2010)
- 18-907. <u>Legal status provisions</u>. (1) <u>Conflict with other ordinances</u>. In case of conflict between the ordinance comprising this chapter or any part thereof, and the whole or part of any existing or future ordinance of the Town of Signal Mountain, Tennessee, the most restrictive shall in all cases apply.
- (2) <u>Severability</u>. If any section, clause, provision, or portion of the ordinance comprising this chapter shall be held to be invalid or unconstitutional by any court of competent jurisdiction, such holding shall not affect any other section, clause, provision, or portion of the ordinance comprising this chapter which is not of itself invalid or unconstitutional. (as added by Ord. #2010-13, July 2010)

TITLE 19

ELECTRICITY AND GAS

CHAPTER

- 1. GAS FRANCHISE.
- 2. GAS CODE.
- 3. ELECTRICAL CODE.

CHAPTER 1

GAS FRANCHISE

SECTION

19-101. To be furnished under franchise.

19-101. <u>To be furnished under franchise</u>. Gas service shall be furnished for the town and its inhabitants under such franchise as the town council shall grant. The rights, powers, duties, and obligations of the town, its inhabitants, and the grantee of the franchise shall be clearly stated in the written franchise agreement which shall be binding on all parties concerned. (1985 Code, § 13-301)

GAS CODE

SECTION

19-201. Municipal code references. 19-202–19-205. [Deleted.]

19-201. <u>Municipal code references</u>. Gas code: See title 12, chapter 4. (Ord. #88-6, as replaced by Ord. #2005-11, Oct. 2005, Ord. #2010-22, Nov. 2010, and Ord. #2020-23, Sept. 2020 $\it Ch20_06-28-21$)

19-202–19-205. <u>Deleted.</u> (as deleted by Ord. #2020-23, Sept. 2020 ${\it Ch20_06\text{-}28\text{-}21})$

ELECTRICAL CODE

SECTION

19-301. Municipal code references. 19-302--19-309. [Deleted.]

19-301. <u>Municipal code references</u>. Electrical code: See title 12, chapter 6. (Ord. # 88-5, as replaced by Ord. #2005-8, Oct. 2005, Ord. #2010-21, Nov. 2010, and Ord. #2020-23, Sept. 2020 $\it Ch20_06-28-21$)

19-302--19-309. Deleted. (as deleted by Ord. #2020-23, Sept. 2020 ${\it Ch20_06\text{-}28\text{-}21}$)

TITLE 20

MISCELLANEOUS

CHAPTER

- 1. TELEPHONE SERVICE.
- 2. CABLE TELEVISION.
- 3. AIR POLLUTION CONTROL ORDINANCE.
- 4. PLACEMENT OF MAILBOXES.
- 5. SIGNAL MOUNTAIN PARK REGULATIONS AND GUIDELINES.
- 6. SIGNAL MOUNTAIN DONATION POLICY.

CHAPTER 1

TELEPHONE SERVICE¹

SECTION

20-101. To be furnished under franchise.

20-101. To be furnished under franchise. Telephone service shall be furnished for the town and its inhabitants under such franchise as the town council shall grant. The rights, powers, duties, and obligations of the town, its inhabitants, and the grantee of the franchise shall be clearly stated in the written franchise agreement which shall be binding on all parties concerned. (1985 Code, § 13-401)

¹The last telephone service franchise of record was granted to the South Central Bell Telephone Company by ord. of May 8. The telephone service franchise is of record in the town hall.

CABLE TELEVISION¹

SECTION

20-201. To be furnished under franchise.

20-202. Definitions.

20-203. Regulation of rates charged for cable television service and equipment.

20-201. To be furnished under franchise. Cable television shall be furnished for the town and its inhabitants under such franchise as the town council shall grant. The rights, powers, duties, and obligations of the town, its inhabitants, and the grantee of the franchise shall be clearly stated in the written franchise agreement which shall be binding on all parties concerned. (1985 Code, § 13-501)

20-202. <u>Definitions</u>. Whenever the regulations cited in section 20-203 refer to "franchising authority", it shall be deemed to be a reference to the Council of the Town of Signal Mountain. (as added by Ord. #93-18, § 1, Dec. 1993)

20-203. Regulation of rates charged for cable television service and equipment. Pursuant to authority granted by the Cable Television and Consumer Protection Act of 1992 at 47 U.S.C. 543, and Federal Communications Commission action under the authority of said act certifying the town to regulate basic cable television service within the boundaries of the town; and for the purposes of regulating the rates charged to customers of any cable television operator franchised by the town, 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. #93-18, § 1, Dec. 1993)

¹A cable television franchise was granted to Chattanooga Cable TV Company by ordinance on July 17, 1978, which ordinance was amended by ordinance on April 28, 1980 and August 26, 1983. The latter ordinances provided for the succession of Chattanooga Cable TV Company by Telescripps Cable Company in August 1983. Ord. No. 92-21, November 9, 1992 is an ordinance granting to Telescripps Cable Company a franchise for the term of sixteen (16) years. Ord. No. 96-3 (April 1996) is an ordinance transferring the control of the Grantee to Comcast. Ord. No. 97-8 (July 1997) is an ordinance approving the transfer of control of the Grantee from Ralph J. Roberts to Brian L. Roberts. Ord. No. 2010-1, Jan. 2010 grants Comcast a five (5) year nonexclusive franchise. Ord. No. 2010-4 grants the Electric Power Board of Chattanooga a franchise for ten (10) years to operate a cable TV system within the Town of Signal Mountain. These ordinances are of record in the town hall.

AIR POLLUTION CONTROL ORDINANCE

SECTION

20-301. The Signal Mountain Air Pollution Control Ordinance.

20-301. The Signal Mountain Air Pollution Control Ordinance. Be it ordained by the town council of the Town of Signal Mountain, Tennessee that all existing Air Pollution Control Ordinances of the Town of Signal Mountain, Tennessee be and are hereby repealed and in lieu thereof there is hereby adopted an ordinance to be known and cited as, "The Signal Mountain Air Pollution Control Ordinance." Said ordinance is incorporated herein as fully as if set out at length herein and the provisions thereof shall be controlling within the limits of the town. No less than three (3) copies of this ordinance shall be kept on file at the Town Hall, Signal Mountain, Tennessee. (Ord. #87-12, Nov. 1987)

¹See Ords. #93-2, March 1993, #96-2, March 1996, #2000-8#2000-9, June 2000; #2004-7, Dec. 2004, and Ord. #2017-10, which are of record in the town hall, for amendments to the Signal Mountain Air Pollution Control Ordinance.

PLACEMENT OF MAILBOXES

SECTION

20-401. Placement of mailboxes.

- 20-401. <u>Placement of mailboxes</u>. When the United States Postal Service requires residential mailboxes to be located on only one side of a street for delivery efficiency, the property owner or tenant of the property receiving the mailbox and the property owner or tenant of the property sending the mailbox across the street shall meet to attempt to reach agreement as to where the sending property's mailbox shall be located. In the event these two parties cannot reach agreement, the town manager shall hear both parties and determine the placement of the sending property's mailbox:
 - (1) within the limits of the postal regulations;
 - (2) not over the street pavement; and
- (3) not to exceed 50 feet outside of the two imaginary points where the sending property owner's side lot lines intersect with the receiving owner's front property line. (Ord. #97-5, § 1, June 1997)

SIGNAL MOUNTAIN PARK REGULATIONS AND GUIDELINES

SECTION

- 20-501. Park use guidelines.
- 20-502. Park regulations.
- 20-503. Park hours.
- 20-504. Trail information.
- 20-501. Park use guidelines. The following general parks guidelines are applicable to all parks within the town, unless otherwise posted, and supplement other laws, ordinances and codes to insure the safety of park visitors and the preservation of park lands. Trails are designed and designated for foot traffic only. Wheelchairs, strollers, maintenance and emergency response vehicles are the only wheeled vehicles allowed on park trails. Owners must clean up after their pets and remove all pet waste upon exiting the park. Horses are not allowed on any Town trails. (as added by Ord. #2010-2, Jan. 2010, and replaced by Ord. #2016-08, Nov. 2016, and Ord. #2019-03, Jan. 2019 *Ch19 8-26-19*)
- 20-502. <u>Park regulations</u>. In accordance with Tennessee law (<u>Tennessee Code Annotated</u>) and/or town code (TC) the following regulations shall be strictly enforced in all town parks. Violations are punishable by fine or other applicable court action for the following offenses:
- (1) Littering, including the dumping of debris, refuse or waste of any type is prohibited. (<u>Tennessee Code Annotated</u>, § 39-14-502) (town code § 11-1101)
- (2) Pets must be leashed. Allowing an animal to run at large is prohibited. (Tennessee Code Annotated, § 44-8-408) (town code § 10-204)
- (3) Removal of natural material native plants, wood, rocks, artifacts, etc. is prohibited. Violations may be enforced as acts of theft or vandalism. (Tennessee Code Annotated, § 39-14-103) (town code § 11-806)
- (4) Graffiti or any other type of defacing of property is prohibited. Violations may be enforced as acts of vandalism or theft. (<u>Tennessee Code Annotated</u>, § 39-14-408) (town code § 11-101)
- (5) The use or possession of alcoholic beverages is prohibited in all Town parks (town code § 11-201)
- (6) The use or possession of illicit drugs is prohibited in all Town parks. (Tennessee Code Annotated, § 39-17-401 454)
- (7) In general, possession of a firearm will be allowed by a person who is authorized to carry the firearm pursuant to <u>Tennessee Code Annotated</u>, § 39-17-1351, while within or on a public park, natural area, historic park,

nature trail, campground, forest, greenway, waterway, or other similar public place that is owned or operated by the Town of Signal Mountain.

- (8) A handgun carry permit holder shall be prohibited from carrying a firearm in a park or similar public place owned by a local government within the immediate vicinity of property where one (1) or more students are physically present on the property for an activity a reasonable person knows or should know is an athletic event or other school event or school-related activity. (town code § 11-503)
- (9) It shall be unlawful for any person to discharge firearms within the corporate limits of the Town of Signal Mountain, 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. It shall be unlawful to hunt on any property owned, leased or otherwise controlled by the Town of Signal Mountain. (town code §§ 11-501, 11-502)
- (10) Camping and open fires are not permitted in any town park. (as added by Ord. #2010-2, Jan. 2010, and replaced by Ord. #2016-08, Nov. 2016 and Ord. #2019-08, Jan. 2019 *Ch19_8-26-19*)
- 20-503. <u>Park hours</u>. Quiet hours are from sunset to sunrise, unless posted otherwise. (as added by Ord. #2010-2, Jan. 2010)
- 20-504. <u>Trail information</u>. (1) Trails will be marked with color-coded blazes, plus directional signs at junctions, and kiosks at trail entrances with maps and information.
- (2) Trail maps for the Signal Mountain area are available on the town website signalmountaintn.gov or http://atlas.utc.edu/signalmtn/ is the direct link. These maps have trail descriptions and GPS coordinates.
- (3) If you have questions or wish to report maintenance needs, contact the Signal Mountain Parks Board at the town hall, 886-2177. (as added by Ord. #2010-2, Jan. 2010)

SIGNAL MOUNTAIN DONATION POLICY

SECTION

- 20-601. Purpose and objective.
- 20-602. Donation categories.
- 20-603. General policy guidelines and restrictions.
- 20-604. Acknowledgments.
- 20-605. Plaque policy.
- 20-606. Donation process and procedure.
- 20-607. Appeals process.

20-601. <u>Purpose and objective</u>. The purpose of this policy is to provide a means for citizens of the Town of Signal Mountain, Tennessee and others to recognize, commend, acknowledge or memorialize an individual or individuals, whether living or deceased, without regard to merit or contributions to the community, by donating either tangibly or intangibly to the town.

The objective of this policy is to ensure donations meet certain qualitative criteria that will preserve the character, resources, and natural beauty of the town and will be of benefit to its residents. (as added by Ord. #2012-1, Jan. 2012)

- 20-602. <u>Donation categories</u>. (1) <u>Standard donations</u>. A "needs list" compiled by town departments that suggests standard donations to fill specific needs is available at the town hall. Such donations may be either tangible or intangible.
 - (a) Tangible donations include park benches, planters, honor trees or shrubs, flag poles, art work, musical instruments, bleachers, sports equipment, statuary, fountains, recreation equipment, computers, audio or video equipment, art supplies, furniture, furnishings, library books, collections or other items.
 - (b) Intangible donations include monetary gifts designated to sponsor educational, recreational, sports or camp scholarships; to fund improvements to town facilities; to support landscaping and beautification; to refurbish town recreational equipment; to support the work, programs or needs of town departments, boards or other entities.
- (2) Non-standard donations allow donors the opportunity to donate items that are not included on the "needs list." For example, a donor may wish to donate substantially by gifting land, a public building or building expansion, a playing field, a fire truck or the funding for a significant community project. (as added by Ord. #2012-1, Jan. 2012)

- 20-603. General policy guidelines and restrictions. (1) A written proposal for a donation shall be presented to the town manager for review and recommendation to the specific town department, board or other proposed recipient. The parks board will review donations dedicated to parks; the tree board will review donations of trees or shrubs to be planted on town property; the recreation board will review donations designated for recreation, and so on.
- (2) Donations to the Town of Signal Mountain or its departments are one hundred percent (100%) tax deductible.
- (3) No donation, memorial or otherwise, shall be placed on public or road rights-of-way or in a location that is inappropriate or obstructive or hazardous to vehicles and/or pedestrians.
- (4) The successful growth of donated plant materials cannot be guaranteed. The town reserves the right not to replace donated trees, shrubs or other plant materials that are removed, damaged or deceased.
- (5) The town shall reserve the right to remove, alter or discontinue the use of a tangible donation, whether or not it was acquired partially or entirely with donated funds if it is necessary or in the best interest of the town. (as added by Ord. #2012-1, Jan. 2012)
- 20-604. <u>Acknowledgments</u>. (1) Letters from the town will acknowledge donations. Certain tangible donations such as trees, fountains, benches, furniture, and others may be suitable for plaques.
- (2) The town will furnish and install plaques at the donor's expense, but will not be responsible for vandalism, repair, or replacement of plaques.
- (3) If a plaque is damaged to the extent that it presents an eyesore or public liability, the town, at its discretion, may remove it. The donor will be contacted and informed of action. (as added by Ord. #2012-1, Jan. 2012)
 - 20-605. <u>Plaque policy</u>. (1) <u>Exterior plaques</u>. (a) The design review commission shall approve the size and wording of exterior plaques prior to ordering and installation.
 - (b) Plaques shall be made of corrosive resistant metal such as bronze, brass or aluminum alloy.
 - (c) Wall plaques shall not exceed three hundred sixty (360) square inches.
 - (d) Tree or plant plaques shall be flush mounted in a concrete or native stone base with an exposed length x width not exceeding eighty (80) square inches.
 - (i) Tree or plant plaques shall be flush with ground surface in an approved location.
 - (ii) Installation should not impair mowing, maintenance, tree growth or use of the area by the public.
 - (iii) Wall plaques shall be attached securely to an exterior wall.

- (2) <u>Interior plaques</u>. (a) Size and wording of interior plaques shall be approved by the town manager before ordering and installation.
- (b) Plaques shall be made of a corrosive resistant metal or similar durable material and of a color that will harmonize with the site.
- (c) Some plaques may be board mounted to display miniplaques honoring or commemorating consecutive occasions or groups.
- (d) No plaques shall exceed three hundred sixty (360) square inches.
- (e) Plaques installed on furnishings shall be in scale with their surroundings and firmly installed so as not to impair maintenance. (as added by Ord. #2012-1, Jan. 2012)

20-606. Donation process and procedure. (1) Standard donations.

- (a) A donor may select a donation from the "needs list" at the town hall and submit a proposal in writing to the town manager.
- (b) The proposal will be reviewed by the town manager and the intended recipient and if appropriate in form, substance and location, will be approved.
- (2) <u>Non-standard donations or exceptions</u>. (a) A donor shall submit a detailed description of the proposed donation to the town manager who along with the intended recipient will determine if the donation is acceptable and desirable.
- (b) The town manager will recommend the proposal to the town council for final approval. (as added by Ord. #2012-1, Jan. 2012)
- 20-607. Appeals process. A potential donor who chooses to appeal any decision relating to a donation may contact the town manager to request a hearing before the town council. The request must be received by the town manager at least ten (10) days before a regularly scheduled council meeting and shall be filed in compliance with the town code. The town council shall be the final authority on any donation decision within the town. (as added by Ord. #2012-1, Jan. 2012)

TOWN OF SIGNAL MOUNTAIN, TENNESSEE ZONING REGULATIONS AND AMENDMENTS

ARTICLE I TITLE AND ENACTMENT

100. Title:

AN ORDINANCE ESTABLISHING REVISED COMPREHENSIVE ZONING REGULATIONS FOR THE TOWN OF SIGNAL MOUNTAIN, TENNESSEE, AND PROVIDING FOR THE ADMINISTRATION, ENFORCEMENT, AND AMENDMENT THEREOF, IN ACCORDANCE WITH THE PROVISIONS OF SECTIONS 13-7-201 THROUGH 13-7-306, TENNESSEE CODE ANNOTATED, AND FOR THE REPEAL OF ALL ORDINANCES IN CONFLICT HEREWITH.

101. Short Title:

THESE REGULATIONS SHALL BE KNOWN AND MAY BE CITED AS "THE AMENDED AND RESTATED ZONING REGULATIONS OF THE TOWN OF SIGNAL MOUNTAIN, TENNESSEE."

102. <u>Authority and Purpose</u>:

WHEREAS, Sections 13-7-201 through 13-7-210, Tennessee Code Annotated, empowered all municipalities to enact zoning regulations and to provide for the administration, enforcement and amendment thereof, and

WHEREAS, the Town of Signal Mountain deems it necessary, for the purpose of promoting the public health, safety, morals, convenience, order, prosperity and general welfare of the inhabitants of the municipality to enact such regulations, and

WHEREAS, the Town Council, pursuant to the provisions of Section 13-4-101 and Sections 13-4-101 through 13-4-203, Tennessee Code Annotated, has appointed a Planning Commission to make and adopt a zoning plan, including both the full text of zoning regulations and the maps, for the regulation by districts or zones of the location, height, bulk, number of stories, and size of buildings and other structures, the percentage of the lot which may be occupied, the size of the yards, courts, and other open spaces, the density of population and the uses of buildings, structures and land for trade, industry, residence, recreation, public activities and other purposes, and

WHEREAS, the Town Council is authorized to divide the town into districts or zones of such number, shape, and areas as it may determine, and may regulate the erection,

construction, reconstruction, alteration and uses of buildings and structures and uses of land, and

WHEREAS, the Planning Commission has made and certified its zoning plan to the Town Council, and

WHEREAS, the Town Council has given due public notice of hearings relating to these amendments to its zoning districts, regulations, and restrictions, and has held such public hearings as are required by law, and

WHEREAS, all requirements of state law, with regard to these amended and restated zoning regulations have been met;

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF SIGNAL MOUNTAIN, as follows:

ARTICLE II ESTABLISHMENT OF DISTRICTS: PROVISION FOR OFFICIAL ZONING MAP

201.	Official Zoning Map:
201.01	The Town is hereby divided into zones, or districts, as shown on the Official Zoning Map which, together with all the explanatory matter thereon, is hereby adopted by reference and declared to be part of these regulations.
201.02	The Official Zoning Map shall be identified by the signature of the Mayor, attested by the Town Manager, and bearing the seal of the Town under the following words:
	"This is to certify that this is the Official Zoning Map referred to in Article II of the Zoning Regulations of the Town of Signal Mountain, Tennessee", together with the date of the adoption of these regulations.
201.03	If, in accordance with the provisions of these regulations and Sections 13-7-203 and 13-7-204, Tennessee Code Annotated, changes are made in district boundaries or other matters portrayed on the Official Zoning Map promptly after the amendment has been approved by the Town Council, with an entry on the Official Zoning Map as follows:
	"On, by official action of the Town Council the following change(s) were made in the Official Zoning Map: (brief description of the nature of changes) which entry shall be signed by the Mayor and attested by the Town Manager. No amendment to these regulations which involves matter portrayed on the Official Zoning Map shall become effective until after such change and entry has been made on said map.
201.04	No changes of any nature shall be made in the Official Zoning Map or matter shown thereon except in conformity with the procedures set forth in these regulations.
201.05	Any unauthorized change of whatever kind by any person or persons, shall be considered a violation of these regulations and punishable as provided under Article XXI.
201.06	Regardless of the existence of purported copies of the Official Zoning Map which may from time to time be published, the Official Zoning Map shall be located in the Signal Mountain Town Hall vault and a duplicate in the office of the Current Planning and Operations Division of the Chattanooga Hamilton County Regional Planning Agency.

202. Replacement of Official Zoning Map:

In the event that the Official Zoning Map becomes damaged, destroyed, lost, or difficult to interpret because of the nature or number of changes and additions, the Town Council may, by ordinance, adopt a new Official Zoning Map which shall supersede the prior Official Zoning Map and shall be identified by the signature of the Mayor, attested by the Town Manager and bearing the seal of the town under the following words:

"This is to certify that this Official Zoning Map supersedes and replaces the Official Zoning Map adopted October 19, 1936, as part of the Zoning Regulations of the Town of Signal Mountain, Tennessee."

Unless the prior Official Zoning Map has been lost, or has been totally destroyed, the prior map or any significant parts thereof remaining, shall be preserved, together with all available records pertaining to its adoption or amendment.

ARTICLE III DEFINITIONS OF CERTAIN TERMS USED HEREIN

The purpose of this article is to clarify the meaning of certain words as they are used in these regulations.

301. Interpretation of Certain Terms and Words:

Except as specifically defined herein, all words used in these regulations have their customary dictionary definitions. For the purpose of these regulations, certain words or terms are to be interpreted as follows:

- (a) The word person includes a firm, association, organization, partnership, trust, company, or corporation as well as an individual.
- (b) The present tense includes the future tense, the singular number includes the plural, and the plural number includes the singular.
- (c) The word shall is mandatory, the word may is permissive.
- (d) The words used or occupied include the words intended, designed, or arranged to be used or occupied.
- (e) The word lot includes the words plot or parcel.

302. Terms of Political Jurisdiction and Legal Authority:

- (a) <u>Board of Zoning Appeals</u>: Means the Board of Zoning Appeals for the Town of Signal Mountain, Tennessee.
- (b) <u>Chief Legislative Body or Town Council</u>: Shall be interpreted as referring to the Town Council within the political jurisdiction of the Town of Signal Mountain, Tennessee.
- (c) <u>Planning Commission</u>: Refers to the Signal Mountain Planning Commission.

303. List of General Definitions:

For the purpose of these regulations, certain words and terms are defined as follows:

Accessory Structure: A detached structure, with a permanent foundation, the use of which is subordinate to that of the principal structure located on the same lot. Such structures may include but are not limited to, storage buildings, detached garages, carports, fireplaces, wood sheds, gazebos, tree houses, greenhouses, playhouses, pool bath houses, skateboard platforms, covered animal enclosures, playground equipment, barns, stables and riding rings. (As replaced by Ord. #2014-02, April 2014)

Adult-Oriented Establishment: See Section 1200.08 of this Ordinance.

Agriculture: The breeding, planting, nourishing, caring for, gathering and processing of any animal or plant organism for the purpose of nourishing people or any other plant or animal organism, or for the purpose of providing the raw material for non food products. For the purpose of these regulations, agriculture shall include the growing of flowers and other ornamental crops and the commercial breeding and caring for animals as pets.

<u>Alley</u>: A way which affords only secondary means of access to abutting property.

Animal Hospital (Small): An establishment for the care, treatment and boarding of animals commonly considered small at maturity, including domestic dogs and cats and other ordinary household pets; but specifically excluding goats, swine, cattle, and horses. (Amended 10 - 2004)

Apartment House: (See "Dwelling, Multiple-Family")

Assisted Living Facility: Any building, establishment, complex which accepts persons for domiciliary care and provide room, board, and non-medical living assistance to the residents. Prescribed medical treatment may be administered subject to the provisions of T.C.A. § 68-11-201. (Added 10 - 2004)

Auto Wrecking Yard: Any place where three (3) or more motor vehicles not in running condition, or the parts thereof, are stored in the open, or any building or structure used principally for the wrecking or storage of such motor vehicles. This definition is not intended to include businesses such as motor vehicle repair garages, service stations, or motor vehicle restoration and reconditioning garages which store vehicles only on a temporary basis and not for purposes of salvage or sale. Auto wrecking yards are prohibited in all districts within the Town. (Amended 10 - 2004)

Bed and Breakfast Establishment: A private, single-family home, inn or other unique residential facility offering bed and breakfast accommodations and one daily meal and having not less than four and not more than twelve guest rooms furnished for compensation, with lodgers staying not more than fourteen days, and where the innkeeper resides on the premises or property or immediately adjacent to it. Guest rooms shall be established and maintained distinct and separate from the innkeeper's quarters. (Added 8-12-96, Ord. 96-8; Amended 10 - 2004)

Buffer Strip (Planted Evergreen): A greenbelt planted not less than ten (10) feet in width. Such a greenbelt shall be composed of one (1) row of evergreen trees, spaced not more than thirty (30) feet apart and not less than two (2) rows of shrubs or hedges, spaced not more than five (5) feet apart and which grow to a height of five (5) feet or more after one (1) full growing season and which shrubs will eventually grow to not less than ten (10) feet. This strip not to be utilized for parking, either private or public, in any situation.

<u>Buildable Area</u>: The portion of a lot remaining after required setbacks have been provided. (As replaced by Ord. #2014-01, Feb. 2014)

<u>Buildable Land</u>: The portion of a parcel that is not constrained by natural features, protected the Town of Signal Mountain Subdivision Regulations, this ordinance or the State of Tennessee. (Added by Ord. #2013-18, Sept. 2013)

<u>Building</u>: Any structure used or built for the shelter or enclosure of persons, animals, or personal property. (Added 10 - 2004)

Building Height: The vertical distance between the finished grade elevation across the front of the building and (a) the highest point of the roof surface of a flat roof or (b) the highest point of the deck line of a mansard roof or (c) a point which is two-thirds (66.67%) of the height of a gable, hip or gambrel roof. If the building is set back from the street line, the height may be measured from the average elevation of the finished grade at the front of the building, provided that the distance from the street line to the front of the building is not less than the height of such finished grade above the established curb. No building height may exceed forty (40) feet above finished grade elevation across the frontage or front yard of the building in any zone as defined in the list of definitions at Section 303 within the Town. (Amended 10 - 2004, and by Ord. #2012-8, Dec. 2012)

<u>Clinic</u>: A facility providing medical services for out-patients only.

<u>Club</u>: Buildings and facilities owned or operated by an association or persons for a social or recreational purpose, but not operated primarily for profit or to render a service which is customarily carried on as business.

<u>Conservation Land</u>: The portion of undeveloped land within a Conservation Subdivision that has been designated, dedicated, reserved or restricted in perpetuity from further development by final plat notations and deed restrictions or conservation easement. (Added by Ord. #2013-18, Sept. 2013)

Conservation Subdivision: A residential development where a designated percentage the buildable land area is preserved as undivided, permanent open space or farmland, thereby permanently protecting agriculturally, environmentally, culturally or historically significant areas within the tract. Compact lots, common open space, and the preservation and maintenance of natural, historical, and cultural resources generally characterize Conservation Subdivisions within the Town. (Added by Ord. #2013-18, Sept. 2013)

<u>Continuing Care Retirement Communities</u>: A continuing care retirement facility which provides independent living, assisted living, assisted living and adult day care for people with Alzheimer's disease, and skilled nursing care.

<u>Conventional Subdivision</u>: A lot-by-lot division of land that spreads development evenly throughout a parcel. Minimum lot size and setbacks of all lots within a Conventional Subdivision are determined by the underlying zoning. (Added by Ord. #2013-18, Sept. 2013)

<u>Curb Level</u>: The main level of the established curb in front of a building. Where no such curb has been established, the Town Engineer or the county

engineer (depending upon the jurisdiction involved) shall establish such curb level.

<u>Day Care Center</u>: A place operated by a person, society, agency, corporation, institution, or other group that received pay for the care of eight (8) or more children under seventeen (17) years of age for less than twenty four (24) hours per day, without transfer of custody. The term "Day Care Center" also includes child development centers, nursery schools, day nurseries, playschools, and kindergartens, as well as agencies providing before-and-after school care, regardless of name, purpose, or auspices. The term "Day Care Center" excludes schools and kindergartens operated by governmental units or religious organizations. (Amended 10 - 2004)

<u>Day Care Home</u>: A home operated by any person who receives pay for providing less than twenty four (24) hour supervision and care, without transfer of custody, for not more than seven (7) children under seventeen (17) years of age who are not related to the operator and whose parents or guardian are not residents of the household. (Amended 10 - 2004)

<u>Drive-In Restaurant or Refreshment Stand</u>: Any place or premises used for sale, dispensing, or serving of food, refreshments, or beverages in automobiles, including those establishments where customers may serve themselves and may eat or drink the food, refreshments, or beverages on the premises.

<u>Dwelling</u>, <u>Mobile Home</u>: A detached residential dwelling unit designed for transportation after fabrication on streets or highways on its own wheels or on a flatbed or other trailer and arriving at the site where it is to be occupied as a dwelling, complete and ready for occupancy except for minor and incidental unpacking and assembly operations, location on jacks or other temporary or permanent foundations, connections to utilities, and the like. A travel trailer is not to be considered as a mobile home.

<u>Dwelling</u>, <u>Multiple-Family</u>: A residential building designed for occupancy by three (3) or more families.

<u>Dwelling</u>, <u>Single-Family</u>: A detached residential dwelling unit other than a mobile home designed for and occupied by one (1) family only.

<u>Dwelling</u>, <u>Two Family (duplex)</u>: A principal structure that contains two (2) dwelling units on one (1) lot designed for occupancy by not more than two (2) families. The units must share a common wall or common floor/ceiling. (As replaced by Ord. #2014-04, May 2014)

<u>Dwelling Unit</u>: One (1) room, or rooms, connected together, constituting a separate, independent housekeeping establishment for owner occupancy, or rental or lease on a weekly, monthly, or longer basis, and physically separated from any other room or dwelling units which may be in the same structure, and containing independent cooking and sleeping facilities.

<u>Family</u>: A group of one or two persons or parents with their direct descendants and adopted and foster children, together with not more than three persons not so related, living together in a room or rooms comprising a single housekeeping unit. Every additional group of five or less persons living in such housekeeping unit shall be considered a separate family. (Amended 10 - 2004)

<u>Fitness Center</u>: A facility where members or non-members use equipment or space for the purpose of physical exercise. (Added 2009-15)

<u>Flag Lot</u>: An interior lot located generally to the rear of another lot, but with a narrow portion of the lot extending to the public street. Flag lots are prohibited in all districts in the Town. (Added 10 - 2004)

<u>Frontage</u>: The width of the property measured along the dedicated and publicly accepted street right-of-way. However, lot frontage on cul-de-sac turn-arounds or short radius curves may be less than the lot frontage required by this Ordinance, provided that the lot has the required minimum lot frontage at (1) the rear of the required front yard or (2) the building setback line as shown on the plat. (Amended 10 - 2004)

<u>Functional Classification of Streets and Roads</u>: The following shall be the criteria whereby streets and roads are classified:

(a) Principal Arterials: Significant intra-area travel, such as between central business districts and outlying residential areas, between major inner city communities, or between major suburban centers should be served by this system. Principal arterials are not restricted to controlled access routes. For principal arterials, the concept of service to abutting land should be subordinate to the provision of travel service to major traffic movements. For the purposes of these regulations, the term "principal arterial" shall be taken to mean any street identified as such in the official General Plan 2001 for Chattanooga Hamilton County, Tennessee, as amended or superseded by any such successor general plan, or as designated by the Signal Mountain Planning Commission and approved by the Town Council. Taft Highway / Ridgeway Avenue is a principal arterial that is located in the Town.

- (b) Major Streets: Should interconnect with and augment the urban principal arterial system and provide service to trips of moderate length at a somewhat lower level of travel mobility than principal arterials. These facilities place more emphasis on land access than the higher system. Ideally, major streets (also known as minor arterials) do not penetrate identifiable neighborhoods. For the purposes of these regulations, the terms "major street" or "minor arterial" shall be taken to mean any street identified as such in the official General Plan 2001 for Chattanooga Hamilton County, Tennessee, as amended or superseded by any such successor general plan, or as designated by the Signal Mountain Planning Commission and approved by the Town Council.
- (c) <u>Collector Streets</u>: Provide both land access and traffic circulation within residential neighborhoods as well as commercial/industrial areas. They differ from the arterial system in that facilities on the collector system may penetrate through the area to the ultimate destination. For the purposes of these regulations, the term "major street" shall be taken to mean any street identified as such in the official General Plan 2001 for Chattanooga Hamilton County, Tennessee, as amended or superseded by any such successor general plan, or as designated by the Signal Mountain Planning Commission and approved by the Town Council.
- (d) Public Streets (or Local Streets): Comprise all facilities not on one of the higher systems. They serve primarily to provide direct access to abutting land and access to the higher order systems. They offer the lowest level of mobility and through traffic movement usually is deliberately discouraged. For the purposes of these regulations, the term "public street" or "local street" shall be taken to mean any street identified as such in the official General Plan 2001 for Chattanooga Hamilton County, Tennessee, as amended or superseded by any such successor general plan, or as designated by the Signal Mountain Planning Commission and approved by the Town Council. (Added 10 2004)

Garage, Private: A building or space used as an accessory to or a part of a main building permitted in any residential district and providing for the storage of motor vehicles an in which no business, occupation, or service for profit is in anyway conducted.

<u>Garage</u>, <u>Storage</u>: Any building or premises, other than a private garage, used exclusively for the parking or storage of motor vehicles.

<u>Gross Leasable Area</u>: The total floor area designed for tenant occupancy and exclusive use including basements, mezzanines, and upper floors (if any) expressed in square feet and measured from the center line of joining partitions and from outside wall faces. It is all that area on which tenants pay rent.

<u>Guest House</u>: Any private, single-family home, inn or other unique residential facility in which not less than one (1) and not more than three (3) guest rooms are furnished for compensation with lodgers staying not more than fourteen days, and where the innkeeper resides on the premises or property or immediately adjacent to it. (Added 10 - 2004)

<u>Health Spa</u>: Shall be healthcare businesses which employ professional Tennessee licensed therapists, whose services include massage and body or facial treatments for certain services such as treatments for body packs and wraps, exfoliation, cellulite, and heat treatments, electrolysis, body toning, waxing, aromatherapy, cleansing facials, medical facials, hydrotherapy etc. in an office setting. (Added 2010-11)

<u>Historic</u>: A structure, site, district, monument, or object of any age but with particular merit due to architectural style, method of construction, natural rarity, or association with a notable person, age, event, or culture.

<u>Home Occupation</u>: Any occupation conducted in a dwelling unit, provided that:

- (a) No person other than members of the family residing on the premises shall be engaged in such occupation;
- (b) The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants, and not more than twenty-five (25) percent of the floor area of the dwelling unit shall be used in the conduct of the home occupation;
- (c) There shall be no change in the outside appearance of the building or premises, or other visible evidence of the conduct of such home occupation;
- (d) There shall be no sales of products or commodities on the premises;
- (e) Any home occupation that generates traffic volume to or parking problems at the premises than would normally be expected at a similar property where no home occupation is conducted at or

adjacent to the location of such home occupation as determined by the Building Inspector shall be allowed only by Special Permit from the Board of Zoning Appeals in accordance with provisions of Article XII of this Ordinance;

- (f) No equipment or process shall be used in any home occupation which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the lot, nor shall any equipment or process be used which creates visual or audible interference in any radio or television receiver off the premises, or cause fluctuations in the line voltage off the premises. In the case of a duplex, or apartment building, no use shall be permitted which affects another unit in the same building in the above mentioned ways;
- (g) Guest houses and bed and breakfast establishments must comply with all of the home occupation requirements listed above except the requirement in clause (b) of this definition. (Added 8-12-96; Ord. 96-8. Amended 10 2004)

<u>Hospital</u>: Any institution, place, building or agency where care, accommodations, facilities and equipment are furnished, for one (1) or more non-related persons who need the care of nursing and medical or surgical services. (Added 10 - 2004)

<u>Hotel</u>: A building or other structure kept, used, maintained, advertised as or held out to the public to be a place where sleeping accommodations are supplied for pay to transient or permanent guests or tenants, in which ten (10) or more rooms are furnished for the accommodation of such guests.

<u>Houseparent or Guardian</u>: Persons who provide care for the residents of residential homes for the handicapped and/or aged persons, assisted living facilities, and medically assisted living facilities. (Added 10 - 2004)

<u>Institutional Planned Unit Development</u>: An Institutional Planned Unit Development is a completely planned institutional, district, professionally designed as a unit, and approved by the Signal Mountain Town Council, on a site of not less than five (5) acres, in an office district.

<u>Junkyard</u>: A junkyard is an open area where waste or scrap materials are bought, sold, exchanged, stored, baled, packed, disassembled, or handled, including, but not limited to, scrap iron and other metals, paper, rags, rubber tires, and bottles. A junkyard includes an auto wrecking yard but does not include uses established entirely within enclosed buildings. Junkyards are prohibited in all districts within the Town. (Amended 10 - 2004)

<u>Liquor</u>: Beverages exceeding five (5) percent alcohol.

<u>Liquor Stores</u>: (Package Store) Retail store selling package liquor.

<u>Loading Space</u>, <u>Off-Street</u>: Space logically and conveniently located for bulk pickups and deliveries, scaled to delivery vehicles expected to be used, and accessible to such vehicles when required off street parking spaces are filled. Required off street loading space is not to be included as off street parking space in computation of required off street parking space.

<u>Lodger</u>: An occupant of a guest house or bed and breakfast establishment other than the owner or caretaker or his immediate family. (Amended 10 - 2004)

<u>Lot</u>: For purposes of these regulations, a lot is a parcel of land of at least sufficient size to meet minimum zoning requirements for use, coverage, and area, to provide such yards and other open spaces as are herein required. Such lot shall have frontage on an improved public street, or on an approved private street, and may consist of:

- (a) A single lot of record;
- (b A portion of a lot of record;
- (c) A combination of complete lots of record, of complete lots of record and portions of lots of records;
- (d) A parcel of land described by metes and bounds; provided that in no case of division or combination shall any residual lot or parcel be created which does not meet the requirements of these regulations.

<u>Lot Frontage</u>: The front of a lot shall be construed to be the portion adjacent to the street. For the purposes of determining yard requirements on corner lots and through lots, all sides of a lot adjacent to streets shall be considered frontage, and yards shall be provided as indicated under "Yards" in this section.

<u>Lot Lines</u>: The lines bounding the lot. Specific lot lines shall be defined as follows:

<u>Lot Line, Front</u>: The front lot line of an interior lot is the line separating the lot from the street or easement of principal access. The front lot line of a corner lot shall be the lot line of the least length abutting the street or streets, except that any street: lot line may be elected to be the front lot line for the purposes of these regulations provided it is so designed on the application for a zoning permit.

<u>Lot Line, Rear</u>: The rear lot line is the boundary opposite and more or less parallel to the front lot line. The rear lot line of an irregular or triangular lot shall be for the purpose of these regulations a line of not less than ten (10) feet long, lying wholly within the lot, and parallel to a farthest distance from the front lot line.

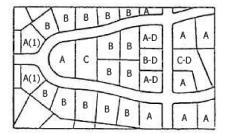
<u>Lot Line</u>, <u>Side</u>: A side lot line is any lot boundary line, not a front lot line, or a rear lot line. A side lot line separating a lot from a street line is an exterior side lot line. Any other side lot line is an interior side lot line.

Lot Measurements:

- (a) Depth of the lot shall be considered to be the distance between the midpoints of straight lines connecting the foremost points of the side lot lines in front and the rearmost points of the side lot lines in the rear.
- (b) Width of a lot shall be considered to be the distance between straight lines connecting the front and rear lot lines at each side of the lot, measured across the rear of the front yard required by these regulations.

<u>Lot of Record</u>: A lawfully created lot or parcel established by plat or deed as duly recorded by the Hamilton County Register of Deeds. (As replaced by Ord. #2013-18, Sept. 2013)

<u>Lot Types</u>: The diagram which follows, illustrates terminology used in these regulations with reference to corner lots, interior lots, reversed frontage lots and through lots:



In the diagram:

A = corner lot, defined as a lot located at the intersection of two or more streets. A lot abutting on a curved street or streets shall be considered a corner lot if straight lines drawn from the foremost point of the lot meet at an interior angle of less than 135 degrees. See lots marked A1 in the diagram.

B = interior lot, defined as a lot other than a corner lot with only one (l) frontage on a street.

C = through lot, defined as a lot other than a corner lot with frontage on more than one (1) street. Through lots abutting two (2) streets may be referred to as double frontage lots.

D = reversed frontage lot, defined as a lot on which the frontage is at right angles or approximately right angles (interior angle less than 135 degrees) to the general pattern in the area. A reversed frontage lot may also be a corner lot (A-D in the diagram), or a through lot (C-D)

Manufactured Home (also known as a Mobile Home): A structure, transportable in one (1) or more sections, which eight (8) body feet or more in width, or forty (40) body feet or more in length, or, when erected on site, is three hundred twenty (320) or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning and electrical systems contained therein. For flood plain management purposes the terms "manufactured home" and "mobile home" also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than one hundred eighty (180) consecutive days. For building permit purposes there shall be affixed to a factory manufactured home the appropriate State Of Tennessee certification label before same shall be considered to meet standards required for issuance of a building permit. (Amended 10 - 2004)

Manufactured Home Park or Subdivision: A parcel or contiguous parcels of land divided into two or more manufactured home lots for rent or sale. Manufactured Home Parks and Manufactured Home Subdivisions are prohibited in all districts within the Town. (Amended 10 - 2004)

Medically Assisted Living Facility: A group home facility not otherwise regulated or defined by this Ordinance or otherwise exempt from local regulations, where living assistance (including prescribed medical treatment) is given to the residents. (Added 10 - 2004)

Memorial Garden and Columbaria. An accessory use for a church which may dedicate a portion of church property for the sprinkling of ashes of human remains in a garden or the placement of containers of ashes of human remains as an accessory use within a garden or other structure on church property and which may provide for memorial plaques. (Added 05 - 2011)

Minimum Building Site: The minimum building site is the area bounded by the building footings and/or foundations, plus three (3) feet in all directions.

Modular Unit (Sectional or Relocatable Home): A factory-fabricated transportable building designed to be used by itself or to be incorporated with similar units at a building site into a single structure without carriage or hitch. The term is intended to apply to major assemblies and may not include prefabricated sub elements which are to be incorporated into a structure at the site. Such units are designed as stationary construction for placement upon permanent foundation, to be connected to utilities and may consist of one (1) or more components.

<u>Motel</u>: A building or group of buildings used or intended to be used for overnight occupancy by transient motorists. The primary distinction between a motel and a hotel is that the motel has parking spaces adjacent or reasonably close to each sleeping unit.

Non-conforming Use: A use that does not conform to the regulations of the use district in which it is situated.

<u>Nursing Home</u>: Any institution, place, building or agency where care is provided for one (1) or more non-related persons who are not acutely ill, but who do require skilled nursing care and related medical services beyond the basic provisions of food, shelter and laundry. (Added 10 - 2004)

Open Air Market: A retail market or sale operated outdoors or beneath unenclosed shelters and doing business on a continuing basis, or in excess of four (4) days in any calendar year, where inexpensive and/or second hand items and/or foodstuffs are offered for sale by one or more vendors and including all fruit or vegetable markets, flea markets, rummage sales, garage or attic sales, and similar undertakings when operated in such a manner as to fall within the limits of this definition. (Amended 4-13-92 and 10 - 2004)

<u>Outdoor Advertising Business</u>: Provision of outdoor displays or display space on a lease or rental basis only.

<u>Park, Ornamental</u>: All municipal, state, federal, and private parks designed for passive recreational uses, including, for example, but not limited to Adams Square Park, Coolidge Park, Givens Park, and Patten Park.

<u>Parks</u>, <u>Recreational</u>: All municipal, state, federal, and private parks which are primarily designed for active recreational uses.

Parking Space, Off-Street: For the purpose of these regulations, an off-street parking space shall consist of a space adequate for parking an automobile with room for opening doors on both sides, together with properly related access to a public street or alley and maneuvering room. Required off-street parking areas for three (3) or more automobiles shall have individual spaces marked, and shall be so designed, maintained, and regulated that no parking or maneuvering incidental to parking shall be on any public street, walk, or alley, and so that any automobile may be parked and unparked without moving another. For purposes of rough computation, an off-street parking space and necessary access and maneuvering room may be estimated at three-hundred (300) square feet, but off-street parking requirements will be considered to be met only when actual spaces meeting the requirements above are provided and maintained, improved in a manner appropriate to the circumstances of the case, and in accordance with all ordinances and regulations of the Town.

<u>Planned Commerce Center</u>: A development intended to serve an entire community or region which is situated on a site not less than five (5) acres, planned and constructed as a unit and providing a variety of goods and services in stores and offices conveniently arranged with respect to one another and to off-street parking facilities provided with safe access to and from appropriate public streets.

<u>Planned Shopping Center</u>: A development situated on a site of not less than five (5) acres, planned and constructed as a unit and providing a variety of goods and services in stores and offices conveniently arranged with respect to one another and to off-street parking facilities provided with safe access to and from appropriate public streets.

<u>Planned Unit Development (PUD)</u>: A completely planned residential, institutional, or multipurpose land development, professionally designed as a unit, and approved as such by the Town Council. (Amended 10 - 2004)

<u>Principle Structure</u>: The main or primary structure located on a parcel, to which all other buildings or structures are accessory. When a residential building or dwelling is present on a parcel in a residential zone, that residential building or dwelling shall be considered the principle structure. (As added by Ord. #2013-18, Sept. 2013)

<u>Professional Office</u>: Professional offices shall include the following uses: medical and dental offices, attorney offices, engineering, architectural and planning offices, accountant offices, and any office use which in the judgment of the Board of Zoning Appeals is similar in character, type and effect to the above uses. (Added 10 - 2004)

<u>Public Use</u>: All uses which are owned, leased, or otherwise maintained by a governmental entity provided that said uses are also located within the political jurisdiction of the same governmental entity.

Required Yards: The area defined by applicable setbacks. (As added by Ord. #2013-18, Sept. 2013)

Residential Home for Handicapped and/or Aged Persons: A home represented and held out to the general public as a home which accepts handicapped and/or aged persons for permanent, domiciliary care, and which provides room, board, and personal services (excluding nursing services). This facility may include up to two (2) additional persons (plus their dependents) acting as houseparents or guardians, who need not be related to each other or to any of the handicapped or aged persons residing in the facility. The term "handicapped" includes "physically handicapped" persons and "mentally handicapped" and "mentally retarded" persons who have been formally diagnosed by a licensed psychologist with competency in clinical psychology as suffering from psychiatric illness, and is receiving treatment or care for mental illness; but the term "handicapped" does not include persons who are mentally ill, and who, because of such mental illness pose a likelihood of serious harm (as defined in T.C.A. §33-604) or who have been convicted of serious criminal conduct related to such mental illness. The term "aged" usually means those persons who are sixty (60) years or older. (Added 10 - 2004)

<u>School</u>: An academic learning center, whether public or private, from the level of nursery through twelfth grade. (12-14-79)

<u>Satellite Television Receiving Dish</u>: A device commonly parabolic in shape mounted at a fixed point on the ground or roof and designed to capture television signals transmitted via satellite communications facilities and serving a function similar to a television antenna. (3-12-84)

<u>Service Station</u>: A building or lot where gasoline, oil, and grease are supplied and dispensed at retail to the motor vehicle trade, or where batteries, tires, and accessories are sold and installed; or where engine tuning, minor adjustments, and similar light maintenance services are provided; or where major repairs that may require removal of the engine, transmission, or differential are provided; but not including businesses offering body repairs requiring filling, grinding, or repainting. (Amended 10 - 2004)

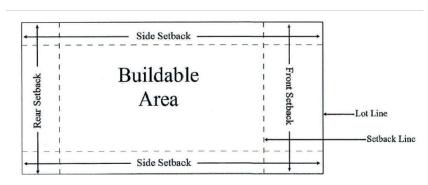
<u>Setback</u>: The area between the setback lines and respective lot lines that must remain unoccupied and unobstructed from the ground upward by

permanent structures. (As added by Ord. #2013-18, Sept. 2013, and replaced by Ord. #2014-01, Feb. 2014)

Setback Line, Front: A line across the full width of a lot parallel to and at the required distance from the front lot line. (As added by Ord. #2014-01, Feb. 2014)

Setback Line, Rear: A line across the full width of a lot, parallel to and at the required distance from the rear lot line. (As added by Ord. #2014-01, Feb. 2014)

Setback Line, Side: A line through the full depth of a lot, parallel to and at the required distance from each side lot line.



(As added by Ord. #2014-01, Feb. 2014)

Sign: See Article XXV of this Ordinance. (Amended 10 - 2004)

Special Exception: A special exception is a use that would not be appropriate generally or without restriction throughout the zoning division or district but which, if controlled as to number, area, location, or relation to the neighborhood, would promote the public health, safety, welfare, morals, order, comfort, convenience, appearance, prosperity, or general welfare. Such uses may be permitted in such zoning division or district as special exceptions, if specific provision for such special exceptions is made in these zoning regulations.

Stable, Private: A stable with capacity of not more than one (l) horse for each thirty five hundred (3500) square feet of lot area where such stable is located and where such horses are owned by the owners or occupants of the premises and are not kept for remuneration, hire, or sale.

Story: That portion of a building including between the surface of any floor and the surface of the next floor, above it, or if there is no floor above it, then the space between such floor and the ceiling next above it. In computing the

height of the building, the height of basement shall not be included if below grade.

Story, Half: A story under a gabled, hipped, or gambrel roof the wall plats of which, or at least two (2) opposite exterior walls, are not more than three (3) feet above the finished floor of such story.

<u>Streets</u>: Those rights-of-way dedicated to the public and accepted by the public authorities, and include highways and roads, and provide primary access to the abutting properties.

Street Line: The right-of-way line of a street.

<u>Structure</u>: Anything constructed or erected with a fixed location on the ground, or attached to something having a fixed location on the ground. Among other things, structures include buildings, mobile homes, walls, fences, billboards, and poster panels.

<u>Structural Alterations</u>: Any change, except for repair or replacement, in the supporting members of a building, such as bearing walls, columns, beams or girders.

<u>Studio</u>: A studio includes, in addition to other usual meanings, the processing, finishing, framing, and incidental handling of portrait, photographic and other artistic work generate by or from the premises or by persons employed in or reporting to the premises.

Townhouse: A townhouse is a single family dwelling unit attached by common walls to other similar type units, each unit having an open space for light, air, and access in front and rear. There shall be not less than two (2) nor more than ten (10) such units connected together. A townhouse must be properly connected to a public, conventional, gravity sewer system. Townhouses that are or are to be located in districts where townhouses are permitted must also meet the requirements of Section 615 (Residential Townhouse District). (Amended 10 2004)

<u>Tract</u>: A parcel or group of parcels of land defined and combined as a whole.

<u>Travel Trailer</u>: Any vehicle used, or so constructed as to permit its being used as conveyance upon the public streets or highways and duly licensable as such, and constructed in such a manner as will permit occupancy thereof as a dwelling or sleeping place for one (1) or more persons, and designed for short-term occupancy for a period not to exceed thirty (30) days, for frequent and/or extensive travel, and for recreational and vacation use, including, but

not limited to, camper trucks and self-propelled campers. (Amended 10 - 2004)

<u>Travel Trailer Camp</u>: Any plot of land upon which two (2) or more travel trailers are located and used as temporary living or sleeping quarters. The occupants of such camps may not remain in the same trailer camp for more than ninety (90) days, consecutive or otherwise, during any three hundred sixty-five (365) day period. (Amended 10 - 2004)

<u>Used Car Lot</u>: Any parcel of land used in whole or in part for the display and sale of two (2) or more used automobiles. No used car lots are permitted in any district within the Town. (Amended 10 - 2004)

<u>Utility Uses</u>: All structures, substations, land, easements, facilities, and other property belonging to or otherwise utilized by a power generation or distribution company, a water company, telephone company, gas company, or other such entity which operates under the jurisdiction of the Tennessee Public Service Commission.

<u>Variance</u>: A variance is a relaxation of the terms of the zoning regulations where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of the regulations would result in unnecessary and undue hardship.

<u>Vehicle</u>: Any conveyance used to transport passengers or things by land, water or air. (Added 10 - 2004)

<u>Warehouse (mini-warehouse or self-storage warehouse)</u>: A building or group of buildings in a controlled access and fenced compound that contain various sizes of individual, compartmentalized, and controlled-access stalls or lockers for the storage of customer's goods or wares. (Added 10 - 2004)

<u>Yard</u>: The area of a lot that surrounds a house or other principal building. (Amended 4-12- 93, and replaced by Ord. #2014-01, Feb. 2014)

<u>Yard, Front</u>: A yard across the full width of the lot extending from the front of the house or other principal building including porches, to the front line of the lot. (As replaced by Ord. #2014-01, Feb. 2014)

<u>Yard, Rear</u>: A yard extending across the full width of the lot and measured between the rear line of the lot and the house or other principal building. (As replaced by Ord. #2014-01, Feb. 2014)

<u>Yard, Side</u>: A yard between the house or other principal building and the side line of the lot extending from the front plane of the house or other principal building to the rear plane of the house or principal building. (As replaced by Ord. #2014-01, Feb. 2014)

ARTICLE IV RULES FOR INTERPRETATION OF DISTRICT BOUNDARIES

- 400. Where uncertainty exists as to the boundaries of districts as shown on the Official Zoning Map, the following rules shall apply.
 401. Boundaries Indicated As Following the Center Line of Streets, Highways, or Alleys shall be construed to follow such center lines;
 402. Boundaries Indicated as Approximately Following Municipal or County Limits shall be construed as following such limits;
- 403. <u>Boundaries Indicated as Approximately Following Railroad Lines</u> shall be construed to be midway between the main tracks;
- 404. <u>Boundaries Indicated as Approximately Following Platted Lot Lines</u> shall be constructed as following such lines;
- 405. <u>Boundaries Indicated as Following Shore Lines</u> shall be construed to follow such shore lines, and in the event of change in the shore line shall be construed as moving with the actual shore line;
- 406. <u>Boundaries Indicated as Approximately Following the Center Lines of Streams, Rivers, Lakes, or Other Bodies of Water</u> shall be construed to follow such center lines;
- 407. Boundaries Indicated as Parallel to or Extension of Features Indicated in Sections 401 through 406 above shall be so construed. Distances not specifically indicated on the Official Zoning Map shall be determined by the scale of this map.
- 408. <u>Board of Zoning Appeals Shall Interpret the Zoning Maps when disputed</u> questions of lot lines or district boundary lines or similar questions arise in the administration of the zoning regulations.
- Where a District Boundary Divides a Lot Which Was in Single Ownership at the Time of Passage of These Regulations, the Board of Zoning Appeals may, as a special exception, permit the extension of the regulations for either portion of the lot.

ARTICLE V APPLICATIONS OF DISTRICT REGULATIONS

- 501. Regulations Regarded as Minimum: The regulations set forth herein for each district shall be minimum regulations and shall apply uniformly to each class or kind of structure or land, and particularly except as hereinafter provided:
- 502. Zoning Affects All Lands, Buildings, and Structures: No land, building, or structure shall hereinafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, reconstructed, moved, or structurally altered except in conformity with all the regulations herein specified for the district in which it is located.
- Zoning Affects Height and Bulk of Buildings and/or Structures Population Density, Lot Coverage, Setbacks and Open Spaces: No building or other structure shall hereafter be erected or altered to exceed the height or bulk; to accommodate or house a greater number of families; to occupy a greater percentage of lot area; or to have narrower or smaller setbacks or open space than herein required or in any other manner contrary to the provisions of these regulations. (As replaced by Ord. #2014-01, Feb. 2014)
- Setback or Open Space, Off-Street Parking or Loading Space Requirements for One Building not to be Included as Such Requirements for Any Other Building: No part of a setback or other open space or off-street parking or loading space required about or in connection with any building for the purpose of complying with these regulations, shall be included as part of setbacks, open space or off-street parking or loading space similarly required for any other building. (As replaced by Ord. #2014-01, Feb. 2014)
- 505. Reduction of Setbacks or Lot Area Prohibited: No setbacks or lot existing at the time of passage of these regulations shall be reduced in dimension or area below the minimum requirements established herein. Setbacks created after the effective date of these regulations shall meet at least the minimum requirements established herein. (As replaced by Ord. #2014-01, Feb. 2014)

ARTICLE VI SCHEDULE OF DISTRICT REGULATIONS

- 600. District regulations for the Town of Signal Mountain, Tennessee, shall be as set forth in this Schedule of District Regulations, and as noted in Article VIII of these regulations, entitled, "Supplementary District Regulations."
- 601. District and Boundaries:
- In order to regulate and limit the height and size of buildings; to regulate and limit intensity of the use of lot areas; to regulate and determine the areas of open spaces within the surrounding buildings; to classify, regulate, and restrict the location of trades and industries; and the location of the buildings designed for specified industrial, business, residential, and other uses, the Town of Signal Mountain, Tennessee, in hereby divided into districts of which there shall be eleven (11) known as:

Low Density Residential District
Moderate Density Residential District
High Density Residential District
Residential Townhouse District
Residential Estate District
Specialty Commercial District
Community Commercial District
Highway Commercial District
Office District
Planned Commerce Center District
Warehouse and Wholesale District
Planned Unit Development

- The boundaries of the districts are shown upon the map accompanying these regulations and made a part thereof, and entitled "Zoning Map of Signal Mountain, Tennessee". The zoning map and all the notations, references, and other information shown thereon are a part of these regulations, and as much a part as if such information set forth on the map were all fully described and set out herein. This zoning map properly attested is on file in the office of the Town Building Inspector.
- In the creation by the regulations of the respective districts, the chief legislative body of the Town has given due and careful consideration to the peculiar suitability of each and every such district for the particular regulations applied thereto, and the necessary, proper and comprehensive grouping and arrangements of the various uses and densities of population in accordance with a well considered plan for the development of the Town.

- The boundaries of such districts are shown upon the map adopted by these regulations or amendment thereto are hereby adopted and approved and the regulations of these regulations governing the uses of land and buildings, the height of buildings, building site areas, the size of yards, about buildings and other matters as hereinafter set forth, are hereby established and declared to be in effect upon all land included within the boundaries of each and every district shown on said map.
- Where uncertainty exists as to boundaries of any district shown on said map, the following rules shall apply:
- Where such district boundaries are indicated as approximately following street lines, alley lines, or lot lines, such lines shall be such boundaries;
- In unsubdivided property where a district boundary divides a lot, the location of such boundary, unless the same is indicated by dimensions, shall be determined by use of the scale appearing on the map.
- Where any street or alley is hereafter officially vacated or abandoned, the regulations applicable to each parcel of abutting property shall apply to that portion of such street or alley added thereto by virtue of such vacation or abandonment.
- 602. General Regulations: Except as hereinafter provided:
- No building, structure, or land shall hereafter be used or occupied and no building or structure or part thereof shall hereafter be erected, constructed, reconstructed, moved, or structurally altered unless in conformity with all of the regulations herein specified for the district in which it is located. See also Article VII.
- No building or other structure shall be erected or altered to have greater height; to accommodate or house a greater number of families or lodgers; to encroach into any required setback or other open space; to provide less off-street parking and loading space than herein required or permitted or m any manner contrary to the provisions of these regulations. (As replaced by Ord. #2014-01, Feb. 2014)
- No part of a setback, or other open space, or off-street parking or loading space required about or in connection with any building for the purpose of complying with these regulations, shall be included as part of a setback, open space or off street parking or loading space similarly required for any other building. (As replaced by Ord. #2014-01, Feb. 2014)

- No yard or lot existing at the time of passage of these regulations shall be reduced in size or area below the minimum requirements set forth herein. Yard or lots created after the effective date of these regulations shall meet at least the minimum requirements established by these regulations, except that lot(s) may be created that do not meet the minimum requirements established by these regulations when they are the result of the resubdivision of lot(s) of record and the newly created lot(s) are as large or larger than the previous lot(s)
- Within each district, the regulations set forth in this Ordinance shall be the minimum regulations and shall apply uniformly to each class or kind of structure or land.
- Every building hereafter erected shall be located on a lot fronting on a street.
- Prohibited Uses and Structures: In general, any uses or structures not of a nature permitted under "Principal Uses Permitted" and "Permitted Accessory Uses and Structures" or any use or structure that is otherwise found to be not in keeping with the stated intent of these zoning regulations as to any particular Zoning District is prohibited within such Zoning District. (Added 10 2004)
- Access to commercial, industrial or other non-residentially zoned property shall be permitted only through a non- residential zone. Access to residentially zoned or developed property may be through any other zoning district. The High Density Residential District, for purposes of access, shall be considered a non-residential district if developed with multi-family residences. (Added 10 2004)
- 603. Low Density Residential District (LDR)
- 603.01 Permitted Uses:
- Single family dwellings, excluding factory manufactured homes constructed as a single self-contained unit and mounted on a single chassis. (Amended 10 2004)
- 603.01.02 Schools, day care centers or kindergartens operated by governmental units or religious organizations; (11-11-91)
- 603.01.03 Parks, playgrounds, and community buildings;

- Golf courses (driving ranges, miniature golf courses and other similar commercial operations are not permitted.); (Amended by Ord. #2013-18, Sept. 2013)
- 603.01.05 Fire halls and other public buildings;
- 603.01.06 Churches, except that a minimum buffer strip of twenty-five (25) feet is required for all side and rear yards abutting residential property. Memorial Gardens and Columbaria are permitted as an accessory use of churches in this district subject to a review by the Board of Zoning Appeals and a Special Exceptions permit from the Town Council. (Amended 05 2011)
- Accessory uses and buildings customarily incidental and subordinate to the above;
- 603.01.08 (Deleted 10 2004)
- 603.01.09 Day care homes;
- 603.01.10 (Deleted 11-11-91)
- 603.01.11 Home Occupation (See Section 303 of this Ordinance) (Amended 10 2004)
- Garage sales, estate sales, rummage sales, and flea markets involving the sale of personal property by a resident on their property. The frequency of these sales at any one address shall not exceed four (4) days in any calendar year. (4-13-92)
- 603.01.13 Residential Homes for Handicapped and/or Aged Persons Operated on a Commercial Basis: The Town Council may issue a Special Permit for a Residential Home for Handicapped and/or Aged Persons under the terms specified in Article XII of this Ordinance, provided that the Home shall not contain more than (8) handicapped and/or aged persons. Such a facility may include up to two (2) additional persons (plus their dependents) acting as houseparents or guardians, who need not be related to each other or to any of the handicapped or aged persons residing in the facility. Upon approval of a Special Exceptions Permit, the applicant must apply for a license for a "Residential Home for the Aged" from the Tennessee Department of Public Health; or shall apply for license for a "Boarding Home Facility", or a "Large Group Home Facility", to be submitted to the Tennessee Department of Mental Health and Substance Abuse Services, as the case may be. Prior to operating either of the above, both the Special Permit and the State License must be obtained. (Added 10 - 2004, and amended by Ord. #2013-18, Sept. 2013)

603.01.14 Permitted Uses on Conservation Lands:

- (1) Village greens, commons, picnic areas, community gardens, trails, and similar low-impact passive recreation neighborhood uses, but specifically excluding motorized off-road vehicles.
- (2) Playing fields, playgrounds, courts, bikeways and other active noncommercial recreation areas, provided such areas do not consume more than half of the minimum required Conservation Lands or five acres, whichever is less:
 - (a) No playing field, playground, court or bikeway shall be located within one hundred (100) feet of abutting residential properties.
 - (b) Parking spaces for each facility are permitted and shall be gravel-surfaced, unlighted, properly drained, and shall provide safe ingress and egress.
- (3) Designed, landscaped water supply facilities, sewage disposal systems, and storm water detention areas available for use as an integral part of the Open Space.
- (4) Easements for drainage, access, sewer or water lines or other public purposes.
- (5) Underground utility rights-of-way. Above-ground utility and street rights-of-way may traverse conservation areas, but shall not count toward the minimum required open space within a Conservation Subdivision. (As amended by Ord. #2013-18, Sept. 2013)

603.02 Height, Density and Area Regulations:

- The building height of any building shall not exceed thirty-five (35) feet, except that a building may exceed those height regulations provided that for every one (1) foot of additional height over thirty-five (35) feet the building shall be set back one (1) additional foot from all property lines, provided, however, that in no event shall the building height of any building exceed forty (40) feet. (Amended 10 2004)
- The Maximum Number of Lots allowed in a development shall be derived by multiplying the Base Number of Lots determined by the calculations in Section 5.102.203 of the Subdivision Regulations by a density factor as specified below:
 - a. For the Maximum Number of Lots in Conservation Subdivisions, multiply the Base Number of Lots by a density factor of 1.

b. For the Maximum Number of Lots in Conventional Subdivisions, multiply the Base Number of Lots by a density factor of .5.

For the Maximum Number of Lots in Minor Subdivisions, multiply the Base Number of Lots by a density factor of 1.

Subdivision Type	Street Frontage	Front Setback	Side Set back	Rear Setback	*Minimum Lot Size (Sq. Ft.)	Maximum Lot Coverage
Conservation	40'	20'	10'	25'	10,890	40%
Conventional	100'	40'	15'	25'	43,560	35%
**Minor Subdivision	100'	40'	15'	25'	43,560	35%

^{*}Lots on septic may be subject to additional acreage requirements as established by Hamilton County Ground Water Protection.

603.03 Off-Street Parking Regulations:

Off-street parking shall be provided on the same lot as the structure or on a Low Density Residential District lot adjacent to the lot on which the structure of use is located in accordance with the following requirements: (Amended 10 - 2004)

603.03.01.01 There shall be two (2) parking spaces for each dwelling unit.

603.03.01.02 There shall be one (1) parking space for every three (3) seats in the main auditorium of churches and other public buildings.

603.03.01.03 Parking space for golf courses shall be in an amount satisfactory to the Town and approved by the Town Council.

603.03.01.04 (Deleted 10 - 2004)

603.04 (Deleted by Ord. #2013-18, Sept. 2013)

603.05 (Deleted 10 - 2004)

^{**}For minor subdivisions being developed within an existing subdivision, the developer shall use the most frequently occurring front setback on the street. The same shall apply for a single infill lot. (As amended by Ord. #2013-18, Sept. 2013)

604	Moderate Density Residential District (MDR)
604.01	Permitted Uses:
604.01.01	Single family dwellings, excluding factory manufactured homes constructed as a single self-contained unit and mounted on a single chassis (Amended 10 - 2004)
604.01.02	Two (2) family dwellings
604.01.03	Schools, day care centers or kindergartens operated by governmental units or religious organizations. (11-11 91)
604.01.04	Parks, playgrounds, and community buildings
604.01.05	Golf courses, except driving ranges, miniature courses and other similar commercial operations
604.01.06	Fire halls and other public buildings
604.01.07	Churches, except that a buffer strip of twenty five (25) feet is required for all side and rear yards abutting residential property
604.01.08	Accessory uses and buildings customarily incidental and subordinate to the above (Amended 10 - 2004)
604.01.09	(Deleted 10 - 2004)
604.01.10	(Deleted 10 - 2004)
604.01.11	(Deleted 11-11-91)
604.01.12	Home Occupation (See Section 303 of this Ordinance) (Amended 10 - 2004)
604.01.13	Garage sales, estate sales, rummage sales, and flea markets involving the sale of personal property by a resident on their property. The frequency of these sales at any one address shall not exceed four (4) days in any calendar year. (4-13-92)
604.01.14	Residential Homes for Handicapped and/or Aged Persons Operated on a Commercial Basis: The Town Council may issue a Special Permit for a Residential Home for Handicapped and/or Aged Persons under the terms specified in Article XII of this Ordinance, provided that the Home shall not contain more than (8) handicapped and/or aged persons. Such a facility may

include up to two (2) additional persons (plus their dependents) acting as houseparents or guardians, who need not be related to each other or to any of the handicapped or aged persons residing in the facility. Upon approval of a Special Exceptions Permit, the applicant must apply for a license for a "Residential Home for the Aged" from the Tennessee Department of Public Health; or shall apply for license for a "Boarding Home Facility", or a "Large Group Home Facility", to be submitted to the Tennessee Department of Mental Health and Mental Retardation, as the case may be. Prior to operating either of the above, both the Special Permit and the State License must be obtained. (Added 10 - 2004)

Height and Area Regulations:

The building height of any building shall not exceed thirty-five (35) feet except that a building may exceed these requirements provided that for every foot of additional height over thirty five (35) feet the building shall be set back one (1) additional foot from all property lines, provided, however, that in no event shall the building height of any building exceed forty (40) feet. All residential buildings shall have a minimum of 1,250 square feet of finished livable floor space. (4-17-89) (Amended 10 - 2004)

The minimum lot size on a lot that will have septic tank(s) shall be determined by the number of bedrooms in the dwelling unit structure to be built on such lot in Moderate-Density Residential Districts as follows:

1, 2, or 3 BDR4 BDR - 25,000 square feet
5 BDR - 32,670 square feet
6 BDR - 37,670 square feet
Over 6 BDR - 5,000 square feet
per additional bedroom

The larger minimum lot sizes for lots where dwelling unit structures will be built that will have more bedrooms than 3 that are specified above apply only to lots on septic tanks, not lots on public sewers. For lots on public sewers, the minimum lot size shall be 21,780 square feet.

The minimum frontage of each lot shall be one hundred (100) feet, except a minimum of seventy-five (75) feet on a cul-de-sac. The minimum lot depth shall be one hundred (100) feet. (Ord. 99-21-November 8, 1999)

There shall be a front setback of forty feet (40'). (As replaced by Ord. #2014-01, Feb. 2014)

604.02.04	There shall be side setbacks of fifteen feet (15'). (As replaced by Ord. #2014-01, Feb. 2014)
604.02.05	There shall be a rear setback of twenty-five feet (25'). (As replaced by Ord. #2014-01, Feb. 2014)
604.03	Off-Street Parking Regulations: Off-street parking shall be provided on the same lot as the structure or on a Moderate Density Residential District lot adjacent to the lot on which the structure of use is located in accordance with the following requirements: (Amended 10 - 2004)
604.03.01	Two (2) parking spaces for every dwelling unit
604.03.02	One (1) parking space for every three (3) seats in a main auditorium of churches, schools, and other public buildings
604.03.03	Parking space for golf courses shall be in the amount satisfactory to the Town and approved by the Town Council.
604.03.04	(Deleted 10 - 2004)
604.04	(Deleted by Ord. #2013-18, Sept. 2013)
605.	High Density Residential District (HDR):
605.01	Permitted Uses:
605.01.01	Single family dwellings, excluding factory manufactured homes constructed as a single self-contained unit and mounted on a single chassis; (Amended 10 - 2004)
605.01.02	Two (2) family dwellings;
605.01.03	Schools, day care centers or kindergartens operated by governmental units or religious organizations (11-11-91);
605.01.04	Parks, playgrounds, and community buildings;
605.01.05	Golf courses, except driving ranges, miniature courses and other similar commercial operations;
605.01.06	Fire halls and other public buildings;

- Churches, except that a buffer strip of twenty-five (25) is required for all side 605.01.07 and rear yards abutting residential properties; 605.01.08 Apartment houses; 605.01.09 Home occupations (See Section 303); (Amended 10 - 2004) Bed and breakfast establishments, except that such use shall require a special 605.01.10 permit under the terms of Article XII of this Ordinance, and guest houses; (Amended 10 - 2004) 605.01.11 Continuing care retirement communities, except that such use shall require a special permit under the terms of Article XII of this Ordinance; (Amended 10 - 2004) 605.01.12 Accessory uses and buildings customarily incidental and subordinate to the above; (Amended 10 - 2004) Day care homes; 605.01.13 (Deleted 100 - 2004) 605.01.14 605.01.15 (Deleted 10 - 2004)
- 605.01.17 Cemeteries. Cemeteries shall require a special permit under the terms of Article XII of this Ordinance. Cemeteries must also comply with the following requirements:

605.01.16

(Deleted 11 - 11 - 91)

- (a) The minimum size of any tract of land intended for such use shall be twenty-five (25) acres. However, if said tract abuts or adjoins an existing cemetery it shall be one (1) acre. Memorial gardens, where human ashes are spread upon the earth, shall be excluded from any size requirement.
- (b) Access and egress shall be obtained only from an arterial or collector street;
- (c) There shall be a one hundred (100) foot buffer area, said buffer area should be set aside along all property lines abutting other residentially zoned land, and said buffer shall be used only for the location of trees, shrubs, fencing or other site-obscuring ornamentation, but specifically shall not be used for grave sites, interior drives, parking or service buildings; and

- (d) All land intended for grave sites shall be above the elevation of the 100-Year Flood Plain.
- 605.01.17.1 Application Procedure for a Cemetery Special Exception:

The owner of a tract of land proposed for development as a cemetery shall apply to the Board of Zoning Appeals for a Special Exception Permit.

The applicant must submit a site plan to the Board of Zoning Appeals for the proposed development drawn at a minimum scale of one inch equals one hundred feet (1" = 100") and shall:

- (a) Define the location, size, accessibility and existing zoning of the proposed site;
- (b) Indicate the surrounding type of development and land use;
- (c) Illustrate the proposed plan of development, including the location of all structures, parking areas and open space;
- (d) Show a plan for new public streets, thoroughfares, public utility easements or other public or community uses, if such are intended as part of the development;
- (e) In addition to the above, the Planning Commission or Town Council may require such other additional information as may be determined necessary to adequately review the proposed development.
- The Board of Zoning Appeals shall conduct an analysis of the proposed cemetery site, which will include, but shall not be limited to, the following:
 - (a) A land use survey of the surrounding development;
 - (b) Evaluation of the probable impact of the proposed development
 - (c) Proposed points of access and ease if ingress and egress;
 - (d) The lot, yard and open space requirements.

The Board of Zoning Appeals shall hold a public meeting, and will report on its analysis of the proposed site.

- 605.01.17.3 The Board of Zoning Appeals shall submit its findings to the Planning Commission and Town Council for consideration and action. The recommendations of the Board of Zoning Appeals shall be accompanied by a report stating the reasons for approval or disapproval of a Special Exception Permit for a cemetery. This report is to include, but is not limited to, the following areas of concern:
 - (a) The probable effect on the property adjacent to the site under consideration;

- (b) The consistency of the proposal with the intent and purpose of this Ordinance to promote the public health, safety, morals and general welfare;
- (c) Additional requirements which are needed in order to make the development more compatible with the surrounding land use.
- (d) The Town Council shall hold a public hearing on the request for the Special Exceptions Permit. The notice and publication of the public meeting shall conform to the procedures as prescribed in Article XI hereof for hearings before the Council on changes and amendments.

605.01.17.4 Special Exceptions for Existing Cemeteries:

Existing cemeteries may be expanded by a Special Exceptions Permit issued by the Town Council subject to a review and recommendation by the Planning Commission. The following criteria must be met:

- (a) Ingress and egress shall be approved by the Town Engineer.
- (b) All land intended for grave sites shall be above the elevation of the 100-Year Flood.
- (c) For expansions of less than twenty-five (25) acres, a twenty-five (25) foot buffer shall be set aside along all property lines abutting residentially used land or residentially zoned land. Said buffer:
 - (1) Shall be used only for the location of trees, shrubs, fencing or other sight obscuring ornamentation;
 - (2) Shall not be used for grave sites, interior drives, parking, structures or buildings;
- (d) For expansions of twenty-five (25) acres or more, a one hundred (100) foot buffer area shall be required, subject to the above restrictions.
- 605.01.17.5 Application Procedure for a Special Exceptions Permit for Expansion of an Existing Cemetery:
 - (a) The owner shall submit plans as required under Section 605.01.17.1.
 - (b) The Board of Zoning Appeals shall conduct an analysis of the request subject to the provisions of Sections 605.01.17.2 and 605.01.17.3.

- (c) The Board of Zoning Appeals shall hold a public hearing to review the staff analysis and shall make a recommendation to the Town Council.
- (d) The Town Council shall hold a public hearing on the request. Notice of the public hearing shall conform to the procedures prescribed in Article XI of this Ordinance.
- Garage sales, estate sales, rummage sales, and flea markets involving the sale of personal property by a resident on their property. The frequency of these sales at any one address shall not exceed four (4) days in any calendar year. (4-13-92)
- 605.01.19 Residential Homes for Handicapped and/or Aged Persons Operated on a Commercial Basis: The Town Council may issue a Special Permit for a Residential Home for Handicapped and/or Aged Persons under the terms specified in Article XII of this Ordinance, provided that the Home shall not contain more than (8) handicapped and/or aged persons. Such a facility may include up to two (2) additional persons (plus their dependents) acting as houseparents or guardians, who need not be related to each other or to any of the handicapped or aged persons residing in the facility. Upon approval of a Special Exceptions Permit, the applicant must apply for a license for a "Residential Home for the Aged" from the Tennessee Department of Public Health; or shall apply for license for a "Boarding Home Facility", or a "Large Group Home Facility", to be submitted to the Tennessee Department of Mental Health and Mental Retardation, as the case may be. Prior to operating either of the above, both the Special Permit and the State License must be obtained. (Added 10 - 2004)
- Height and Area Regulations:
- The building height of any building within this zone shall not exceed thirty-five (35) feet except that a building may exceed those height regulations provided that for every one (1) foot of additional height over thirty five (35) feet the building shall be set back one (1) additional foot from all property lines, provided, however, that in no event shall the building exceed forty (40) feet above the finished grade elevation across the frontage or front yard of the building as defined in the list of definitions at Section 303. (Amended 10 2004, and by Ord. #2012-8, Dec. 2012)
- The minimum building site for a two (2) family dwelling shall be twenty-thousand (20,000) square feet. An additional five-thousand (5,000) square feet shall be required for each additional unit up to a total of four (4)

units. Over four (4) units shall require an additional four-thousand (4,000) square feet of ground space for each additional unit.

- The minimum site area for a guest house or a bed and breakfast establishment shall be fifteen-thousand (15,000) square feet plus five hundred (500) square feet for each guest room in excess two (2). (Amended 10 2004)
- The minimum site area for all other permitted uses shall be fifteen thousand (15,000) square feet.
- The minimum lot size on a lot that will have septic tank(s) shall be determined by the number of bedrooms in the dwelling unit structure to be built on such lot in High-Density Residential Districts as follows:

1, 2, or 3 BDR - 21,780 square feet
4 BDR - 25,000 square feet
5 BDR - 32,670 square feet
6 BDR - 37,670 square feet
Over 6 BDR - 5,000 square feet
per additional bedroom

The larger minimum lot sizes for lots where dwelling unit structures will be built that will have more bedrooms than 3 that are specified above apply only to lots on septic tanks, not lots on public sewers. For lots on public sewers, the minimum lot size shall be as stated in Sections 605.02.02, 605.02.03, and 605.02.04 in the Signal Mountain Zoning Ordinance.

The minimum frontage of each lot shall be one hundred (100) feet, except a minimum of seventy-five (75) feet on a cul-de-sac. The minimum lot depth shall be one hundred (100) feet. (Ord. No. 99-22, November 8, 1999)

- There shall be a front setback of forty feet (40'). (As replaced by Ord. #2014-01, Feb. 2014)
- There shall be side setbacks of fifteen feet (15'). (As replaced by Ord. #2014-01, Feb. 2014)
- There shall be a rear setback of twenty-five feet (25'). (As replaced by Ord. #2014-01, Feb. 2014)
- Off-Street Parking Regulations: Off street parking shall be provided on the same lot as the structure or on a High Density Residential District lot adjacent to the lot on which the structure of use is located in accordance with the following requirements: (Amended 10 2004)

- One and one-half (1.5) parking spaces for every dwelling unit in a multi-family structure.
- One (1) parking space for each guest room in a guest house or a bed and breakfast establishment. (Amended 10 2004)
- One (1) parking space for every three (3) seats in a main auditorium for churches, schools, and other public buildings.
- 605.03.04 (Deleted 10 2004)
- 605.05 (Deleted by Ord. #2013-18, Sept. 2013)
- 606. Specialty Commercial District (SCD):
- Intent: It is the intent of the Specialty Commercial District to promote, protect, and sustain the vitality of the community by allowing the development and maintenance of commercial and service enterprises which are both compatible with and complementary to residential properties within the immediate vicinity. Furthermore, it is the intent of this section that all business located within a Specialty Commercial District shall be for retail sales.
- Location: Specialty Commercial Districts shall be permitted only where at least two thirds (2/3) of the street frontage of the district is situated along a major street or collector street. (Amended 10 2004)
- Principal Uses Permitted: The following principal uses and structures may be permitted in a Specialty Commercial District.
- Drug stores and apothecary, antiques and secondhand merchandise, bookstores, tailoring shops, camera shops, stationery stores, apparel stores, shoe stores, limited price variety stores, jewelry stores, candy nuts and confectionery shops, furniture and home furnishings, offices.
- Uses Permitted as Special Exceptions by the Board of Zoning Appeals:

The following uses shall require a special permit under terms of Article XII: nurseries, florists or other related horticultural activities; open air markets. (Amended 10 - 2004)

Uses Permitted as Special Exceptions by the Town Council: (Reserved for Future Use)

Permitted Accessory Uses and Structures: The following accessory uses and structures may be permitted in any approved Specialty Commercial District:
Uses and structures which are customarily accessory and clearly incidental and subordinate to permitted principal uses and structures, an stated and restricted above, and which do not involve operations or structures not in keeping with the intent of this section or with the character of the district, or likely (as constructed, operated, or maintained) to have an adverse effect on the character of areas surrounding the district
Prohibited Uses and Structures: The following uses and structures are found to be not in keeping with the intent of the Specialty Commercial District and are therefore specifically prohibited within any approved Specialty Commercial District.
(Deleted 10 - 2004)
The playing of music or making of announcements directly or through mechanical or electronic devices in a manner audible at any residential lot lines;
The sale of beer, wine, liquor, or other alcoholic beverages for consumption either on or off the premises;
Any business catering exclusively to an adult clientele or any use limited by law or by the proprietor so as to be available only to persons who are eighteen (18) years of age or older.
Theaters, dance halls, billiard rooms, or other businesses, or uses devoted primarily to entertainment;
Planned Commerce Center;
In general, any use or structure not of a nature specifically permitted under "Principal Uses Permitted" and "Permitted Accessory Uses and Structures" above.
Special Sign Limitations (Deleted 2-2-88) (See Signal Mountain Sign Ordinance)
(Deleted 3-14-83)
Minimum District Dimensions

Minimum size of an individual Specialty Commercial District shall be at least thirty-thousand (30,000) square feet, exclusive of public lands and/or rights of way.

606.10 Access to Site

Vehicular access shall be permitted only from major or collector streets except by special review and approval of the Board of Zoning Appeals where unusual circumstances make minor accessways from minor streets practicable without adverse effects on property along such minor streets. Pedestrian access may be permitted at any location on the site.

- Minimum Yard and Landscaping Requirements; Maintenance of Visibility at Access Points; Relation of Yards to Turnout and Merging Lanes
- A setback of forty feet (40') shall be provided along any public street or right-of-way and a twenty-five foot (25') buffer strip is required along any property line abutting developed residential property or an established residential district. Other than as provided above, no other front, rear, or side setbacks are required but where buildings are separated, the distance between them shall be at least five feet (5'). (As replaced by Ord. #2014-01, Feb. 2014)
- No structure, landscaping, fences, terraces, or other natural or artificial features adjacent to any street shall be of a nature impairing visibility from or of approaching vehicular traffic where such visibility is important to safety, nor shall such features in any way create potential hazards to pedestrians. In particular, at vehicular entrances and exits, no off street parking, landscaping, or other material impediment to visibility between the height of three (3) feet and eight (8) feet shall be permitted within triangular areas defined by lines connecting points described as follows:

Beginning at a point where the midline of the entrance or exit drive intersects the public right of way, thence to a point thirty five (35) feet along the right of way in the direction of approaching traffic, thence to a point located twenty five (25) feet toward the interior of the lot (measured along the midline of the entrance of exit and thence to the point of beginning)

Along collector and arterial public streets, turn out lanes and merging lanes may be required by the Town Council, based on the recommendation of the Planning Commission, to be constructed on the lot, with length and width as appropriate to the flow of traffic and traffic separation devices may be required at such entrances and exits and along such merging lanes. Whether required or provided voluntarily, such turn out and merging lanes may be

included as part of the required yard adjacent to the public collector or arterial street.

Maximum Height of Structures

No structure shall exceed thirty five (35) feet in building height. (Amended 10 - 2004)

- Minimum Off-street Parking and Loading Space Requirements
- 606.13.01 Off-street parking within any Specialty Commercial District shall be provided at a ratio of four point zero (4.0) parking spaces per thousand feet of gross leasable of usable floor area;
- Off-street loading facilities shall be provided which do not require the use of required off street parking space during the hours when establishments in the center are open for business.
- All off-street parking and loading space shall be subject to review and approval by the Building Inspector based upon the recommendation of the Design Review Commission and shall be so located, improved, illuminated, operated, and maintained as to provide safe and convenient circulation on the premises and to and from adjacent streets, and to minimize potential friction with adjoining residential property. (Amended 10 2004)

607. Community Commercial District (CCD)

607.01 Intent

It is the intent of the Community Commercial District to promote, where need exists, the clustering and development of businesses, offices, and service facilities to serve the demand for goods and services generated both by area residents and by transients traveling to or from other neighborhoods or places of employment.

607.02 Location

The Town's major streets allow activities to take place through the safe and efficient movement of people and goods with minimal delay or interference from conflicting vehicle movements. Community Commercial Districts shall be located to utilize Major Street frontage or be in close proximity to access these corridors. If frontage is not possible along a major street, property shall be located along a Collector Road within 500' of a Major Street right-of-way and should be identified as appropriate for that development form in the Town's adopted Land Use Plan. (Amended 10 - 2004, and replaced by 2009-14)

607.03	Principal Uses Permitted
	The following principal uses and structures may be permitted in any Community Commercial District:
607.03.01	Bakeries, delicatessens, meat and fish markets whose products are sold only at retail and on the premises;
607.03.02	Banks, savings and loan institutions, finance companies;
607.03.03	Barber shops, beauty shops, and health clinics;
607.03.04	Paint, glass and wallpaper, retail;
607.03.05	Electrical supplies, retail;
607.03.06	Sporting goods and bicycles, retail;
607.03.07	Studios, salons, or showrooms;
607.03.08	Shoe repair, orthopedic equipment sales and fitting;
607.03.09	Household appliances, retail;
607.03.10	Photographic services;
607.03.11	Retail laundry and dry cleaning establishments provided no flammable materials are used;
607.03.12	Nurseries, florists, and greenhouses;
607.03.13	Schools, churches, and other public and semi public buildings;
607.03.14	Furniture repair;
607.03.15	Plumbing and electrical shops, radio, and television shops, appliance repair shops, and similar workshop type uses, provided that not more than five (5) persons are employed therein;
607.03.16	Theaters;
607.03.17	Department stores;
607.03.18	Offices. (Added 10-11-99)
607.03.19	Health Spas operated by Tennessee Licensed Massage Therapists (Added 2010-11)

Uses Permitted as Special Exceptions by the Board of Zoning Appeals

The following uses and structures may be permitted as special exceptions in any Community Commercial District subject to requirements and restrictions as specified on Article XII of these regulations:

- Funeral homes, mortuaries, and undertaking establishments (excluding crematoriums), except that such uses shall require a Special Permit under the terms of Article XII;
- 607.04.02 Small animal hospitals and veterinary offices;
- Miniature golf courses and similar outdoor amusement facilities.
- Special Sign Limitations: See Title 14, Chapter 5, "Signal Mountain Sign Regulations." (As replaced by Ord. #2013-18, Sept. 2013)
- 607.08 Minimum District Dimensions

Minimum size of an individual Community Commercial District shall be at least forty thousand (40,000) square feet, exclusive of public lands and/or rights of way.

607.09 Access to Site

Vehicular access shall be permitted only from arterial or collector streets except by special review of the Board of Zoning Appeals where unusual circumstances make minor accessways from minor streets practicable without adverse effects on property along such minor streets. Pedestrian access may be permitted at any location on the site.

- Minimum Yard and Landscaping Requirements; Maintenance of Visibility at Access Points; Relations of Yards to Turnout and Merging Lanes
- A setback of forty feet (40') shall be provided along any public street or right-of-way and a twenty-five foot (25') buffer strip is required along any property line abutting developed residential property or an established residential district. Other than as provided above, no other front, rear, or side setbacks are required, but where buildings are separated, the distance between them shall be at least five feet (5'). (As replaced by Ord. #2014-01, Feb. 2014)
- No structure, landscaping, fences, terraces, or other natural or artificial features adjacent to any street shall be of a nature impairing visibility from

or of approaching vehicular traffic where such visibility is important to safety, nor shall such features in anyway create potential hazards to pedestrians. In particular, at vehicular entrances and exits, no off-street parking, landscaping, or other material impediment to visibility between the heights of three (3) feet and eight (8) feet shall be permitted within triangular areas defined by lines connecting points described as follows:

- 607.10.02.01 Beginning at a point where the midline of the entrance or exit drive intersects the public right of-way, thence to a point thirty five (35) feet along the right-of-way in the direction of approaching traffic, thence to a point located twenty five (25) feet toward the interior of the lot (measured along the midline of the entrance or exit and thence to a point of beginning)
- Along major public streets, turn out lanes, and merging lanes may be required to be constructed on the lot, with length and width as appropriate to the flow of traffic, and traffic separation devices may be required at such entrances and exits and along such merging lanes. Whether required by the Town Engineer or provided voluntarily, such turn out and merging lanes may be included as part of the required yard adjacent to the public collector or arterial street.
- Maximum Height of Structures

No structure shall exceed thirty-five (35) feet in building height. (Amended 10 - 2004)

Minimum Off-street Parking and Loading Space Requirements

Off-street parking within any Community Commercial District shall be provided on the same lot as the structure or on a Community Commercial District lot adjacent to the lot on which the structure of use is located in accordance with the following requirements: (Amended 10 - 2004)

- For schools and theaters there shall be one (1) space for every three (3) seats in the facilities' largest chapel or auditorium.
- For all other structures and uses, parking shall be provided at the ratio of four point zero (4.0) spaces per thousand square feet of gross leasable or usable floor area.
- Off-street loading facilities shall be provided which do not require the use of required off street parking spaces during hours when establishments in the district are open for business.

607.12.04

All off-street parking and loading space shall be subject to review and approval by the Building Inspector, based on the recommendations of the Signal Mountain Design Review Commission prior to issuance of building permits and shall be so located, improved, illuminated, operated, and maintained as to provide safe and convenient circulation on the premises from adjacent streets, and to minimize potential frictions with adjoining residential property.

(Amended 3-20-95)

607.13 Outdoor Storage Prohibited (Added 10 - 2004)

No outdoor storage shall be permitted.

608. <u>Highway Commercial District (HCD)</u>:

608.01 Intent

It is the intent of the Highway Commercial District to promote the clustering and development of commercial facilities which are directly dependent upon patronage related to traffic along highways and major thoroughfares, in such a manner an to protect both the businesses and surrounding neighborhoods.

608.02 Location:

Highway Commercial District shall be located so as to utilize major street frontage, and all businesses developed within such districts shall be situated on sites so as to utilize frontage on a principal arterial for principal access. (Amended 10 - 2004)

608.03 Principal Uses Permitted

The following principal uses and structures may be permitted in any Highway Commercial District:

Restaurants and other establishments serving prepared food and beverages;

Service stations and car washes, provided that no outdoor storage of wrecked or inoperative vehicles or parts shall be permitted in this district; (Amended 10 - 2004)

608.03.03 Commercial signs, except that all signs must comply with Article XXV; (Amended 10 - 2004)

608.03.04	Grocery stores and supermarkets, including small drive-in grocery sales within enclosed structures; (Amended 4-13-98)
608.03.05	Drive-through banking facilities and drive-through automatic teller machine locations for banks, savings and loan institutions, credit unions and similar financial institutions; (Amended 10 - 2004)
608.03.06	Business supplies and business equipment sales; (Amended 4-13-98)
608.03.07	Discount department stores;
608.03.08	(Deleted 10 - 2004)
608.03.09	Gift and specialty stores; (Added 4-13-98)
608.03.10	Drugstores; (Added 4-13-98)
608.03.11	Small animal hospitals and veterinary offices, except that such uses shall require a special permit under the terms of Article XII; (Amended 4-13-98)
608.03.12	Open air markets, nurseries and garden centers, except that such uses shall require a special permit under the terms of Article XII; (Amended 4-13-98)
608.03.13	Adult-oriented establishments by special permit under the terms of Section 1200.08; subject however, to a distance restriction of more than five hundred (500) feet from the nearest boundary of any residential zone, any recreational park, place of worship, school, day care center, or other adult-oriented establishment; (Amended 4-13-98)
608.03.14	Theaters; (Added 4-13-98)
608.03.15	In general, any authorized uses and structures which are customarily incidental and subordinate to principal uses and structures, as stated and restricted above, and which do not involve operations or structures not in keeping with the intent of this district or with the character of the district, or likely (as constructed, operated or maintained) to have an adverse effect on the character of areas surrounding the district. (Added 4-13-98)
608.03.16	Offices (Added 10-11-99)
608.03.17	Facilities such as boarding, grooming, training, and similar uses for small animals (defined as household pets), except that such uses shall require a special permit under the terms of Article XII. (Added 10 - 2004)
608.03.18	Health Spas operated by Tennessee Licensed Massage Therapists. (Added 2010-11)

Uses Permitted as Special Exceptions by the Board of Zoning Appeals

608.04

(Reserved for Future Use)

608.05 Uses Permitted as Special Exceptions by the Town Council 608.05.01 Hospitals, Assisted Living Facilities. (Added 10 - 2004) 608.06 Prohibited Uses and Structures (Amended 4-13-98) The following uses and structures are found to be not in keeping with the intent of the Highway Commercial District and are therefore specifically prohibited within any approved Highway Commercial District: 608.06.01 Outdoor playing of music or making of announcements abruptly or amplified through mechanical or electronic means in any manner audible from any adjoining residential lot line; except by Special Permit for Special Events. 608.06.02 All Planned Commerce Centers; Any lumber and/or building supply establishment utilizing outdoor storage 608.06.03 of building materials and supplies; 608.06.04 Any outdoor sales, service or display of farm equipment, marine craft and accessories sales, travel trailer sales, and/or mobile home sales; RV or ATV trailers, loading trailers, and any type of motor driven vehicle; 608.06.05 Any outdoor storage of equipment or merchandise not prohibited in this district is further limited to twenty (20%) percent of the lot square footage, excluding the area where buildings are located. Such outdoor storage shall not encroach upon the required parking area for the lot. Additional parking requirements shall also be required for any outdoor storage use. Building/structure base square footage and outdoor use = total square footage for parking requirement). Such outdoor storage areas shall be contained by a natural, sight obscuring, landscaped screen composed of at least one (1) row of evergreen trees, spaced not more than thirty (30) feet apart and which grow to a height of ten (10) feet or more after two (2) full growing seasons. A fence that is a minimum of six (6) feet high may be located behind such natural landscaped screen, i.e., such natural landscaped screen shall be on the street side and such fence shall be on the outdoor storage area side. In the case of nurseries, florist greenhouses and garden centers, all outdoor storage permitted under the space limitations of this section shall be screened on all

sides, including the front, in accordance with the requirements of the two

immediately preceding sentences. (Amended 10 - 2004)

608.06.06

In general, any uses or structures not of a nature permitted under "Principal Uses Permitted" or any use or structure that is otherwise found to be not in keeping with the stated intent of these zoning regulations is prohibited within the Highway Commercial District.

608.07

Special Sign Limitations (Deleted 2-2-88) (See Signal Mountain Sign Ordinance)

608.08

Minimum District Dimensions

Minimum size of an individual Highway Commercial District shall be at least forty thousand (40,000) square feet, exclusive of public lands and/or rights of way.

608.09

Access to Site

Vehicular access shall be permitted only from major or collector streets except by special permission of the Board of Zoning Appeals where unusual circumstances make minor accessways from minor streets practicable without adverse effects on property along such minor streets. Pedestrian access may be permitted at any location on the site.

608.10

Setback requirements and Landscaping Requirements; Maintenance of Visibility at Access Points; Relation of Setbacks to turnout and Merging Lanes. (As replaced by Ord. #2014-01, Feb. 2014)

608.10.01

A setback of forty feet (40) shall be provided along any public street or right-of-way and a twenty-five foot (25') buffer strip is required along any property line abutting developed residential property or an established residential district. Other than as provided above, no other front, rear, or side setbacks are required, but where buildings are separated, the distance between them shall be at least five feet (5). (As replaced by Ord. #2014-01, Feb. 2014)

608.10.02

No structure, landscaping, fences, terraces, or other natural or artificial features adjacent to any street shall be of a nature impairing visibility from or of approaching vehicular traffic where such visibility is important to safety, nor shall such features in any way create potential hazards to pedestrians. In particular, at vehicular entrances and exits, no off street parking, landscaping or other material impediment to visibility between the height of three (3) and eight (8) feet shall be permitted within triangular areas defined by lines connecting points described as follows:

- 608.10.02.01 Beginning at a point where the midline of the entrance or exit drive intersects the public right of way, thence to a point thirty five (35) feet along the right of way in the direction of approaching traffic, thence to a point located twenty five (25) feet toward the interior of the lot (measured along the midline of the entrance or exit) and thence to a point of beginning.
- Along major public streets, turn out lanes and merging lanes may be required to be constructed on the lot, with length and width as appropriate to the flow of traffic, and traffic separation devices may be required at such entrances and exits and along such merging lanes. Whether required by the Town Council or provided voluntarily, such turn out and merging lanes may be included as part of the setback adjacent to the public collector or arterial street. (As amended by Ord. #2014-01, Feb. 2014)
- Maximum Height of Structures

No structure shall exceed thirty five (35) feet in height.

Minimum Off-Street Parking and Loading Space Requirements

Off street parking and loading space shall be provided on the same lot as the structure or on a Highway Commercial District lot adjacent to the lot on which the structure of use is located in accordance with the following requirements: (Amended 10 - 2004)

- For churches there shall be one (1) space for every three (3) seats in the largest chapel or auditorium.
- For all other permitted uses, four point zero (4.0) spaces per thousand feet of gross leasable or usable floor area.
- Off-street loading facilities shall be provided which do not require the use of required off-street parking space during hours when establishments in the district are open for business. All off-street parking and loading spaces shall be subject to review and approval by the Building Inspector based on the recommendation of the Signal Mountain Design Review Commission and shall be located, improved, illuminated, operated, and maintained as to provide safe and convenient circulation on the premises and to and from adjacent streets, and to minimize potential friction with adjoining property. (Amended 3-20-95)
- 609. Office District (OD)
- 609.01 Permitted Uses:

609.01.01	Single family, two (2) family, and multiple family dwellings, excluding mobile homes;
609.01.02	Libraries; (11-11-91)
609.01.03	Churches, except that a buffer strip of twenty-five (25) feet is required for all side and rear yards abutting residential property;
609.01.04	Social agencies and other non commercial public and semi public uses;
609.01.05	Commercial parking lots, except that such uses shall require a special permit under the terms of Article XII;
609.01.06	Professional, medical or dental offices and clinics;
609.01.07	Laboratories and research centers not objectionable because of odor, dust, noise, or vibration;
609.01.08	Offices;
609.01.09	Public parks and playgrounds;
609.01.10	Home occupations (See Section 303); (Amended 10 - 2004)
609.01.11	Drug stores, restaurants, and snack bars in office buildings and provided that such uses are incidental and complimentary to professional office functions on the premises;
609.01.12	Fraternal, professional or hobby clubs except that such uses shall require a special permit under the terms of Article XII;
609.01.13	Hospitals and nursing homes except that such uses shall require a special permit under the terms of Article XII;
609.01.14	Funeral homes except that such uses shall require a special permit under the terms of Article XII;
609.01.15	Accessory uses and buildings;
609.01.16	Day care homes;
609.01.17	(Deleted 11-11-91)

609.01.18 Schools, daycare centers or kindergartens operated by governmental units or religious organizations (11-11-91) 609.01.19 Schools, day care centers or kindergartens, except those operated by governmental units or by religious organizations; except that such uses shall require a special permit under the terms of Article XII of these regulations. (11-11-91)609.01.20 Small animal hospitals except that such uses shall require a special permit under the terms of Article XII. 609.02 Height and Area Regulations 609.02.01 The building height of any building shall not exceed thirty-five (35) feet, except that a building may exceed those height regulations provided that for every one (1) foot of additional height over thirty-five (35) feet the building shall be set back one (1) additional foot from all property lines, provided, however, that in no event shall the building height of any building exceed forty (40) feet. (Amended 10 - 2004) 609.02.02 The minimum building site area shall be fifteen-thousand (15,000) square feet plus five thousand (5,000) square feet for each dwelling unit over one (1). Guest houses and bed and breakfast establishments, shall have a minimum of fifteen thousand (15,000) square feet plus five hundred (500) square feet for each guest room over (2). All other uses shall have a minimum of fifteen thousand (15,000) square feet. The minimum frontage shall be one hundred (100) feet. (Amended 10 - 2004) 609.02.03 There shall be a front setback of forty feet (40'). (As replaced by Ord. #2014-01, Feb. 2014) 609.02.04 There shall be side setbacks of fifteen feet (15'). (As replaced by Ord. #2014-01, Feb. 2014) 609.02.05 There shall be a rear setback of twenty-five feet (25'). (As replaced by Ord. #2014-01, Feb. 2014) 609.02.06 A buffer strip of twenty-five (25) feet is required for all side and rear yards abutting residential property. 609.03 Off Street Parking Regulations

Off street parking shall be provided on the same lot as the structure or on an Office District lot adjacent to the lot on which the structure of use is located and in accordance with the following requirements. (Amended 10 - 2004)

- One and one half $(1 \frac{1}{2})$ parking spaces for every dwelling unit.
- For public uses or other uses with a chapel or auditorium one (1) space for every three (3) seats in the main auditorium.
- For hospitals and nursing homes one (1) space for every three (3) beds.
- For all other permitted uses one (1) space for every two hundred (200) square feet of usable floor area, excluding all service areas such as halls and stairways.
- Special Exceptions for an Institutional Planned Unit Development

Flexibility in the arrangement of institutional and related uses may be permitted by the Town Council as special exceptions in individual yard requirements to provide for college and university owned facilities, offices, professional and medical buildings, and other institutional structures, except that such use or uses shall require a special permit under the terms of Article VI, Section 613 of these regulations.

- Special Sign Limitations (Deleted 2-2-88) (See Signal Mountain Sign Ordinance)
- 609.06 Outdoor Storage Prohibited (Added 10 2004)

No outdoor storage shall be permitted.

- 610. Planned Commerce Center District (PCCD)
- 610.01 Intent

It is the intent of thin section to promote the development of planned commerce centers which are complementary and appropriate to the surrounding neighborhood and in keeping with the general plan of the community, and subject to such other conditions and safeguards as may be established to assure, insofar as possible, that the development will protect and enhance the value of surrounding property, in addition to fulfilling a public need of the community or region.

610.02 Location

Planned Commerce Center Districts shall be permitted only if they have at least four hundred (400) feet of frontage on major streets or principal arterials. (Amended 10 - 2004)

- 610.02.01 Included within or adjacent to areas zoned for office or commercial use (provided that such areas shall be considered adjacent if separated only by a street or alley) or;
- Separated from other commercial districts and from other Planned Commerce Center Districts by a distance of at least one half (1/2) mile, measured along principal routes of travel.
- 610.03 Principal Uses Permitted

The following principal uses and structures may be permitted in any Planned Commerce Center District:

- Department stores, supermarkets; drug stores; bakeries; meat markets; delicatessens; liquor stores subject to licensing provisions or other governmental regulations of the town; hardware; paint and wallpaper stores, camera shops, florist shops; gift shops; hobby shops; stationery stores; apparel stores; shoe stores; variety stores; jewelry stores; stores for sale of gardening supplies and equipment; radio and television stores; music stores; pet stores; subject to all health and humane regulations of the government; small animal hospitals, without outside kennels or runs for animals and veterinarian offices subject to the requirements and restrictions as specified in Article XII of these regulations. (7-10-89)
- 610.03.02 Eating and drinking establishments;
- Barber shops; beauty shops; cleaning and laundry agencies without major processing on the premises and establishments with coin operated equipment for laundry and dry cleaning; shoe repair shops; repair establishments for household articles and appliances; service stations and repair garages for the repair and testing of internal combustion engines provided that such uses shall be located in a separate structure at least one-hundred and fifty (150) feet from the principal structure or grouping of structures which comprise the principal development, and at least one hundred fifty (150) feet from any use of a non-similar nature. (Amended 10 2004)
- 610.03.04 Offices; studies; medical and dental clinics; banking facilities;
- Uses Permitted as Special Exceptions by the Board of Zoning Appeals:

Open air markets except that such uses shall require a special permit under terms of Article XII (3-11-91)

Small animal hospitals, without outside kennels or runs for animals and veterinarian offices subject to the requirements and restrictions as specified in Article XI of these regulations. (7-10-89)

Uses Permitted as Special Exceptions by the Town Council:

(Reserved)

610.06 Permitted Accessory Uses and Structures

The following uses and structures may be permitted in any approved Planned Commerce Center District:

Uses and structures which are customarily accessory and clearly incidental and subordinate to permitted principal uses and structures, as stated and restricted above, and which do not involve operations or structures not in keeping with the character of the planned shopping center, or likely (as located, constructed, operated, or maintained) to have an adverse effect on the character of the areas surrounding the shopping center. It is specifically provided that garbage and trash, unless kept in principal buildings, shall be kept in containers in accessory structures, and that neither the containers nor loose garbage or trash shall be visible from residential areas, from portions of the premises customarily open to customer, pedestrian or automotive traffic, or from public ways.

610.07 Prohibited Uses and Structures:

The following uses and structures are specifically prohibited in any approved Planned Commerce Center District

The production or manufacture of goods other than those intended for sale at retail on the premises;

The sale of food or drinks for consumption in automobiles on the premises;

Open air markets, except that such uses shall require a special permit under terms of Article XII; (Amended 10 - 2004)

610.07.04 Outdoor storage; (Added 10 - 2004)

In general, any use or structure not of a nature specifically permitted under "Principal Uses Permitted" and "Permitted Accessory Uses and Structures" above.

Special Sign Limitations: (Deleted 2-2-88) (See Signal Mountain Sign Ordinance)

610.09 Minimum District Dimensions:

Minimum width of the district shall be four hundred (400) feet, minimum area, five (5) acres. No such district shall be divided by any public street. In addition to these minimum requirements, the district shall be of such size, shape, and location as to enable development of well organized commercial facilities with proper access, ingress, egress, off street parking and loading space, and other requirements.

610.10 Greenbelt:

A Planned Commerce Center District shall be screened on all side yards and rear yard lot lines adjoining a residential zone by one of the methods given below, as selected by the owner.

- A greenbelt planting strip, not less than twenty five (25) feet in width.
- 610.10.01.01 Such greenbelt shall be composed of at least one (1) row of deciduous and/or evergreen trees spaced not more than thirty (30) feet apart and which grow to a height of ten (10) feet or more after two (2) full growing seasons.
- 610.10.01.02 Natural vegetation can be retained if it meets the intent of this section, or supplemented to meet the intent of this section.
- 610.11 Minimum Off-Street Parking and Loading Space Requirements:

Off-street parking and loading space shall be provided on the same lot as the structure or on a Planned Commerce Center District lot adjacent to the lot on which the structure of use is located in accordance with the following requirements:

- One and one-half (1 1/2) parking spaces for every dwelling unit.
- For all other permitted uses, one (1) space for every two hundred (200) square feet of usable floor area, excluding all service areas such as halls and stairways.

Off-street loading facilities shall be provided which do not require the use of required off street parking space for business. All off street parking and loading spaces shall be subject to review and approval by the Building Inspector based on the recommendation of the Signal Mountain Design Review Commission and shall be so located, improved, illuminated, operated and maintained as to provide safe and convenient circulation on the premises and to and from adjacent streets, and to minimize potential friction with adjoining property. (12-14-79) (3-20-95)

Maximum Height of Structure (Added 4-13-98)

No structure shall exceed thirty-five (35) feet in building height. (Amended 10 - 2004)

Minimum Setback Requirements.

A setback of forty feet (40') shall be provided along any public street or right-of-way. A setback of twenty-five feet (25') shall be provided along any property line adjoining a residential zone. Other than as provided above no other front, rear, or side setbacks are required, but where buildings are separated, the distance between them shall be at least five feet (5'). (Added 4-13-98, and replaced by Ord. #2014-01, Feb. 2014)

- Warehouse and Wholesale District (WWD):
- 611.01 Use Regulations:
- 611.01.01 The following uses shall be permitted: Warehousing (including mini-warehouses and self-storage warehouses), wholesaling, retail office space, and retail sales, and repacking.
- 611.02 Height and Area Regulations:
- The building height of any building shall not exceed thirty-five (35) feet, except that a building may exceed those height regulations provided that for every one (1) foot of additional height over thirty-five (35) feet the building shall be set back one (1) additional foot from all property lines, provided, however, that in no event shall the building height of any building exceed forty (40) feet; (Amended 10 2004)
- 611.02.02 There is no minimum building site area;
- There shall be a front setback of forty feet (40); (As replaced by Ord. #2014-01, Feb. 2014)

611.02.04	There shall be side setbacks of fifteen feet (15') except where the permitted use joins a residential zone, then the side setback shall be twenty five feet (25'); (As replaced by Ord. #2014-01, Feb. 2014)
611.02.05	There shall be a rear setback of fifty feet (50') where the rear yard abuts a residential zone; (As replaced by Ord. #2014-01, Feb. 2014)
611.02.06	No site shall be covered with building to an extent greater than sixty-five (65) percent of the area of said site.
611.03	Off-Street Parking Regulations:
	Off-street parking and loading space shall be provided on the same lot as the building or on a Warehouse and Wholesale District lot adjacent to the lot on which the building is located in accordance with the following: (Amended 10 - 2004)
611.03.01	One (1) auto parking space for each person employed on the largest shift;
611.03.02	One (1) auto parking space for each two hundred (200) square feet of office floor area;
611.03.03	There shall be three (3) square feet of parking space for every one (1) square foot of retail sales or display floor area;
611.03.04	One (1) off street loading space per ten thousand (10,000) square feet of floor space or fraction thereof used for industrial or commercial purposes, such space to be approved by the Signal Mountain Design Review Commission (3-20-95)
611.03.05	No parking or drives shall be permitted within twenty-five (25) feet of a residential zone;
611.03.06	Truck doors or loading docks fronting on a street shall be not less than seventy five (75) feet from said street;
611.04	General Provisions:
611.04.01	No materials, supplies, or equipment excepting trucks and passenger autos shall be stored in any area on the lot, except inside a closed building;
611.04.02	The total area of identifying signs shall not exceed forty (40) square feet;

- No free-standing signs shall be permitted within twenty five (25) feet of a residential zone;
- Directional signs shall be permitted for customer convenience, not exceeding two (2) square feet;
- Signs illuminated by exposed tubes, bulbs, or similar exposed light sources shall be prohibited;
- Exterior spot lighting or other illumination of structures shall be directed away from adjoining residential zones;
- Any use described in Section 611.01.01 shall be screened with a natural, sight obscuring, landscaped screen on all sides, including the front, in accordance with the following requirements:
- 611.04.07.01 A greenbelt planting strip, not less than twenty-five (25) feet in width. Such greenbelt shall be composed of at least one (1) row of evergreen trees, spaced not more than thirty (30) feet apart and which grow to a height of ten (10) feet or more after two (2) full growing seasons. Natural vegetation can be retained if it meets the requirements of this section, or is supplemented to meet the requirements of this Section. (Amended 10 2004)
- No outdoor storage shall be permitted. (Amended 10 2004)
- 612. (Deleted 10 2004)
- 613. Planned Unit Development (PUD)
- 613.01 Purpose:

The purpose of the Planned Unit Development (sometimes hereinafter referred to as PUD) is intended to provide the rules and regulations through which tracts of land may be developed through an overall unified approach rather than the traditional lot-by-lot treatment afforded to other districts in this chapter. It is intended to provide a maximum of design freedom in order to create a better living environment, by making the best use of topography and land features and by permitting the developer an opportunity to more fully utilize the physical characteristics of the site through the reduction of lot sizes, the flexibility of setback and bulk restrictions and the planned mixing of uses. Through the requirements of a development plan, it is the intent that property under this section will be developed through a unified design providing continuity between the various elements and ultimately leading to a better environment.

613.02 Objectives and Size Requirements

- (A) Objectives. The Town Council may, upon proper application, adopt a resolution permitting a Planned Unit Development to facilitate the use of flexible techniques of land development and site design by providing relief from requirements designed for conventional developments. In return for greater flexibility in site design requirements, Planned Unit Developments are expected to deliver exceptional quality community designs that:
 - (1) Preserve environmental resources;
 - (2) Provide exceptional open space amenities;
 - (3) Incorporate creative design in the layout of buildings, open space and circulation:
 - (4) Assure compatibility with surrounding land uses and neighborhood character;
 - (5) Provide greater efficiency in the layout and provision of roads, utilities, and other infrastructure; and
 - (6) Facilitate a development pattern more in harmony with the policies and objectives of Town Land Use Plan.
- (B) Minimum Size Requirements. The minimum required site acreage for a Residential PUD shall be five acres, unless the Town Council finds that one or more of the following conditions exist:
 - (1) That an unusual physical or topographic feature of importance to the area as a whole exists on the site or in the surrounding area that will contribute to and be protected by the Planned Unit Development;
 - (2) That the property or the surrounding area has a historic character of importance to the community that will be protected by the Planned Unit Development;
 - (3) That the proposed Planned Unit Development is adjacent to a previously approved Planned Unit Development and will contribute to the amenities and values of the neighboring Planned Unit Development;
 - (4) That the Planned Unit Development is located in an area being redeveloped and will implement the policies of an adopted plan, including, but not limited to the Land Use Plan, a specific area plan, or redevelopment plan; or
 - (5) That due to additional screening, buffering, transitional uses or other design features, the proposed Planned Unit Development would provide better protection to existing or proposed uses of surrounding property that would otherwise be provided by a conventional development.

613.03 Coordination with Zoning Districts.

(A) Residential Planned Unit Developments shall be permitted in all districts.

- (B) Planned Unit Developments may be constructed subject to the standards and procedures set forth below:
 - (1) Except as expressly modified by the Town Council by approval of an Outline Plan, a Planned Unit Development shall be governed by the regulations of the zoning district or districts in which the PUD is located;
 - (2) Outline Plan approval for the PUD may provide for such exceptions from the zoning district regulations governing use, area, setback, loading, width, setbacks and other bulk regulations, parking, other design features and such subdivision regulations as may be necessary or desirable to achieve the objectives of the proposed Planned Unit Development, provided such exceptions are consistent with the standards and criteria contained in this section and have been specifically requested in the application for a Planned Unit Development; provided, however, no modification of the district requirements or subdivision regulations may be allowed when such proposed modification will result in:
 - (a) Inadequate or unsafe access to the Planned Unit Development;
 - (b) Traffic volume exceeding the anticipated capacity of the proposed major street network in the vicinity;
 - (c) An undue burden on public parks, recreation areas, schools, fire and police protection and other public facilities which serve or are proposed to serve the Planned Unit Development;
 - (d) An undue detrimental effect upon surrounding properties;
 - (e) A development which will be incompatible with the purposes of this section and goals of the Town's Land Use Plan, design guidelines or other applicable regulations or guidelines.
 - (3) Such exceptions shall supersede any conflicting subdivision regulations and zoning district restrictions in which the Planned Unit Development is located; provided, however, in no case shall the uses be varied, except as herein provided. All setbacks abutting private properties along the Planned Unit Development shall not be less than those allowed in the zoning district in which the Planned Unit Development is located unless specifically provided for in the Planned Unit Development conditions. In the absence of an express condition of the Planned Unit Development, the applicable ordinances and regulations of the Town will apply.

- (A) The Planned Unit Development shall comply with the provisions of the subdivision regulations with the exception of those described in (B) below.
- (B) The uniqueness of each proposal for a Planned Unit Development requires that specifications for the width and surfacing of streets, public ways, public utility rights-of-way, curbs and other standards be subject to modification from the specifications established in the subdivision regulations adopted by the Planning Commission and New Street Criteria adopted by the Town Council. Modifications to such specifications may be approved only after review by the Planning Commission and approval of the Town Council.
- (C) The development plans for Planned Unit Developments must be submitted in a form consistent with the requirements of the subdivision regulations.
- (D) The requirements for both this section of this chapter and those of the subdivision regulations shall apply to all Planned Unit Developments and all actions of the Town Council pertaining to Planned Unit Developments shall be made by resolution following a recommendation by the Planning Commission.

613.05 General Standards and Criteria.

- (A) The Town Council shall initially approve a PUD by approving an Outline Plan by resolution upon written findings and recommendations of the Planning Commission which shall be forwarded to the Town Council pursuant to the provisions contained in this section.
- (B) General review criteria. The following general review criteria shall be used in evaluating requests and establishing conditions for a Planned Unit Development:
 - (1) Consistency with plan. The proposed Planned Unit Development must be in agreement with the adopted Land Use Plan and any adopted Area Plan for the town.
 - (2) Physical characteristics of the site and relation to surrounding property. The tract shall be suitable, or it shall be possible to make the tract suitable for development in the manner proposed without hazard to persons or property, on or off the tract, free from the probability of erosion, subsidence, flood hazard, destruction of wetlands or other dangers. Conditions of soil, drainage, and topography shall all be appropriate to both type and pattern of use intended.
 - (3) Relation to public utilities, facilities and services. A Planned Unit Development shall be so located in relation to transportation systems, sanitary sewers, emergency services, public safety, water lines, storm and surface drainage systems, and other utilities systems and

- installations that services can reasonably be expected to be available at the time of development and such services are adequate to serve the proposed development.
- (4) Access to major transportation facilities. A Planned Unit Development, where appropriate because of the size or density of the proposed development, shall be so located with respect to expressways, arterial and collector streets or mass transit facilities, and shall be so designed, as to provide access to and from such districts without creating excessive traffic along local streets in residential neighborhoods outside the development.
- (5) Compatibility. A Planned Unit Development shall be located and designed so as to minimize the negative effects of external impacts resulting from factors such as land use, traffic, noise, or lights. Project control shall be accomplished through buffering, architectural design, architectural compatibility, site design, height limitations, land use restrictions, and density limitations.
 - (a) The design of a Planned Unit Development should reflect an effort by the developer to plan land uses within the Planned Unit Development so as to blend harmoniously with adjacent land uses.
 - (b) Architecture and building materials shall be consistent within the design of the development and compatible with surrounding properties and/or adjacent neighborhoods.
- (6) Transitions. A Planned Unit Development district shall be responsive to the character of surrounding properties and the existing neighborhood area. When located in an area where land use types and/or densities vary, the Planned Unit Development shall be designed in such a manner as to provide for gradual changes in density.
- (7) Relationship to adjacent property. A Planned Unit Development shall include additional screening, buffering, transitional uses or other design features, as necessary, to adequately protect existing or proposed uses of surrounding property, and shall provide functional and logical linkages to activity centers and circulation facilities on such adjacent property.
- (8) Natural and historic f eatures, conservation and preservation areas. Planned Unit Development districts shall be designed to preserve the natural features of the land and historic resources, such as existing trees, natural topography, and archaeological and historic sites, as much as possible.
- (9) Density. Density shall not exceed maximums established in the underlying zoning district.
- (10) Height. The building height of any building shall not exceed thirty-five (35) feet, except that a building may exceed those height

- regulations provided that for every one (1) foot of additional height over thirty-five (35) feet the building shall be set back one (1) additional foot from all property lines, provided, however, that in no event shall the building height of any building exceed forty (40) feet.
- (11) Fences and screening. Fences or vegetative screening at the periphery of a Planned Unit Development shall be provided to protect occupants from undesirable views, lighting, noise or other off-site influence, or to protect occupants of surrounding areas from similar adverse influences. When an adjacent development is of either similar use or density, such screening is not required.
- (12) Environmental Conservation. Planned Unit Development districts shall provide environmental enhancements, such as Leadership in Energy & Environmental Design (LEED) certification from the U.S. Green Building Council, to promote sustainable building design and construction including but not limited to, sustainable neighborhood development, sustainable site development, green roofs, water savings, energy efficiency, materials selection, and indoor environmental quality.
- (C) Homeowner associations or some other responsible party shall be required to maintain all common property and open space and/or common elements, unless accepted by the Town.

613.06 Additional Provisions.

The following general provisions shall apply to any Planned Unit Developments created by resolution by the Town Council:

- (A) Application for Planned Unit Development required. Each application for a Planned Unit Development shall be submitted in accordance with requirements of these regulations and the requirements set forth in the Subdivision Regulations. Variances to the requirements of both regulations may be granted upon review and recommendation of the Planning Commission and approval by the Town Council.
- (B) Waiver of Board of Zoning Appeals action. No action of the Board of Zoning Appeals shall be required in the approval of a Planned Unit Development.
- (C) Ownership and division of land. No tract of land may be considered for or approved as a Planned Unit Development unless such tract is under the single ownership of a landowner. For the purpose of this section, a landowner may be a person, partnership, corporation, association or any other legal entity entitled to own property. The holder of a written option to purchase, a party purchaser to a contract for the sale of real property contingent upon the success of a PUD application for the property or any governmental agency

shall be considered landowners for the purpose of this section. Unless otherwise provided as a condition of approval of the PUD, the landowner of an adopted PUD may divide and transfer parts of such development. The Outline Plan shall control the development of any part of a PUD that is subdivided, sold, or leased. No development may be undertaken in any part of the PUD that is subdivided, sold, or leased that will violate the Outline Plan for the PUD.

(D) Professional design.

- (1) The Planning Commission shall not consider any development plan for any proposed Planned Unit Development, nor shall the Town Council approve any Outline Plan for a proposed Planned Unit Development unless such proposed plan includes a certification that the services of one or more design professionals were used in the preparation of the Outline Plan in addition to a licensed civil engineer.
- (2) An Outline Plan shall be celtified that in addition to a licensed civil engineer, the services of one or more of the following professionals were used in the design and planning process:
 - (a) An urban planner who has the education and experience to qualify for membership in a recognized professional planning association;
 - (b) A practicing landscape architect licensed by the State of Tennessee;
 - (c) A practicing architect licensed by the State of Tennessee.
- (3) A final site plan or subdivision plat shall certify that the series of one of the professionals indicated in subsections (a), (b) or (c) were used in the preparation of the final plan/plat.
- (E) Phasing, inactive Planned Unit Developments and time extensions. The expeditious construction of any Planned Unit Development authorized under these provisions shall be undertaken to assist in the assurance of the completion of the development in accordance with the approved Outline Plan and subsequent approved plans.
 - (1) Phasing of development. The Town Council may elect to permit the development of the Planned Unit Development in phases, in which case, the following provisions shall be complied with:

- (a) Any phasing of a Planned Unit Development shall be approved by Resolution of the Town Council during the Planned Unit Development review process and shall be sufficient in terms of size and scope in order for the phase to exist as a "stand alone" project, in the event the applicant does not implement subsequent phases of the Planned Unit Development as proposed and approved.
- (b) Each phase shall be designed and sequenced to ensure that the impacts of the development upon the surrounding community and properties will not be detrimental or a deterrent to further development of the community and adjacent properties.
- (c) The commencement of actual construction of any phase of the Planned Unit Development shall be governed by the provisions of this chapter.
- (2) Inactive Planned Unit Developments.
 - (a) If a preliminary subdivision plat or preliminary site plan has not been acted upon by the Planning Commission within one year of the approval by resolution of the Outline Plan by the Town Council; or if a final subdivision plat or final site plan has not been acted upon by the Planning Commission with one year of the approval of the Planning Commission's approval of a preliminary subdivision plat or preliminary site plan; or if the development contract is not approved and executed within three years following final subdivision plat or final site plan approval; or at any time the Planned Unit Development or any phase of the Planned Unit Development has not been developed according to a schedule; the Planning Commission shall give notice by certified mail to the owner and applicant who requested the Planned Unit Development and shall schedule a public hearing to take any of the following actions:
 - 1. Recommend extending, removing, or modifying the schedule for development;
 - 2. Recommend amendments to the Outline Plan;
 - 3. Recommend revocation of the Planned Unit Development; and/or

- 4. Recommend rezoning of the property to its former zoning classification.
- (b) After receiving the Planning Commission's recommendation(s), the Town Council shall hold a public hearing and render a decision.
- (3) Time extension for Outline Plans. The owner and applicant who requested the Planned Unit Development may request an extension of the Outline Plan in one year increments. Approval of any time extension is at the discretion of the Planning Commission; however, the total time extension shall not exceed two years without re-approval being granted by the Town Council. When considering approval of a time extension, the Planning Commission may recommend the Outline Plan be modified to comply with regulations adopted since the Planned Unit Development was approved and/or to address changes to surrounding properties since the Planned Unit Development was approved.
- (F) Common open space and public facilities. The requirements of common open space and public facilities shall be in accordance with the provisions of this section.
 - (1) Common open space must be usable for recreational purposes or must provide visual, aesthetic environmental amenities. The uses authorized for the common open space must be appropriate to the scale and character of the Planned Unit Development considering its size, density, expected population, topography and the number and type of structures to be provided.
 - (2) Common open space must be suitably improved for its intended use, but open space containing natural features worthy of preservation may be left unimproved. Any buildings, structures and improvements to be located in the common open space must be appropriate to the uses which are authorized and must conserve and enhance the amenities of the common open space having regard to its topography and the intended function of the common open space.
 - (3) The development phasing sequence which is part of the Outline Plan must coordinate the improvements of the common open space, the construction of the buildings, structures and improvements in the common open space, the construction of public improvements and the construction of residential dwellings in a planned residential development, but in no event shall occupancy permits for any phase

- be issued unless and until the open space which is part of that phase has been dedicated or conveyed and improved.
- (4) No common open space of a planned residential development shall be conveyed or dedicated by the developer or any other person to any public body, homeowner's association or other responsible party unless the Planning Commission has determined that the character and quality of the tract to be conveyed make it suitable for the purpose for which it was intended. The Planning Commission may give consideration to the size and character of the dwellings to be constructed within the planned residential development, the topography and existing trees, the ground cover and other natural features, the manner in which the open space is to be improved and maintained for recreational or amenity purposes and the existence of public parks or other public recreational facilities in the vicinity.
- (5) All land shown on a plan as common open space may be either:
 - (a) Conveyed to a public body, if the public body agrees to accept conveyance and to maintain the common open space and any buildings, structures or improvements which have been placed on it; or
 - (b) Conveyed to an organization for ownership and maintenance subject to the following:
 - 1. The Planning Commission and the Town Council may require that the landowner provide for and establish an organization for the ownership and maintenance of any common open space and such organization shall not be dissolved nor shall it dispose of any common open space, by sale or otherwise, (except to an organization conceived and established to own and maintain the common open space), without first offering to dedicate the same to the Town of Signal Mountain. It shall be the prerogative of the Town Council whether or not to accept it such space.
 - 2. In the event that the organization established to own and maintain common open space or any successor organization shall at any time after the establishment of the Planned Unit Development fail to maintain the common open space in reasonable order and condition in accordance with the adopted final subdivision plat or final site plan (if required), the Town may serve written notice upon such organization and/or the owners or residents of the Planned Unit

Development and hold a public hearing. After 30 days when the deficiencies of maintenance are not corrected, the Town shall call upon all the owners of property within the PUD to maintain the common open space, and, in default thereof, the Town may maintain same;

- 3. The cost of such maintenance by the Town shall be assessed severally and proportionally against the properties within the Planned Unit Development that have a right of enjoyment of the common open space and shall become a lien on the properties;
- 4. If the common open space is deeded to a Homeowners' and/or Property Owners' Association, the developer shall file with the Planning Commission a declaration of covenants and restrictions that will govern the association. Such declaration shall be submitted with the application for preliminary subdivision plan or preliminary site plan approval (if applicable). The Town Attorney will review the documentation as to form prior to Planning Commission approval. The provisions shall include, but not be limited to the following:
 - a. The Association must be set up before the properties are sold:
 - b. Membership must be mandatory for each buyer and any successive buyer;
 - c. The open space restrictions must be permanent, not just for a period of years;
 - d. The Association must be responsible for liability insurance, local taxes and the maintenance of recreational and other facilities;
 - e. Homeowners/property owners must pay their prorated share of the cost of the assessment levied by the association to meet changed needs;
- (6) The Planning Commission and the Town Council may, as a condition of approval, require that suitable areas for streets, public rights-of-way, schools, parks and other public areas be set aside, improved and/or dedicated for public use.

- (G) Security requirements for improvements. Adequate security shall be furnished and filed with the Town of Signal Mountain for private and public improvements in accordance with the applicable provisions of the Subdivision Regulations and Zoning Ordinance. The security shall ensure completion of all improvements, including, but not limited to public site improvements, streets, surface and subsurface drainage, water lines, sewer lines, parking areas, landscaping, planting and screening, as recommended by the Town Engineer.
- (H) Development contract. After a final subdivision plat or final site plan (if required) is approved by the Planning Commission, the developer, and owner, if different from the developer, must enter into a development contract with the Town of Signal Mountain Town Council relative to all required improvements which shall reference the timing and construction of all required improvements by the developer.
- (I) Relation to utilities and public facilities. The Planned Unit Development shall be so located in relation to sanitary sewers, water lines, storm and surface drainage systems and other utilities systems and installations that neither extension nor enlargement of such systems will be required in manner, form, character, location, degree, scale or timing resulting in higher net public cost or earlier incursion of public cost than would development in a form generally permitted in the area. The Planned Unit Development shall be so located with respect to schools, parks, playgrounds and other public facilities required so as to have access in the same degree as would development in a form generally permitted in the area.
- (J) Relation to major transportation facilities. The Planned Unit Development shall be so located with respect to major streets and highways or other transportation facilities as to provide direct access to such districts without creating traffic along minor streets in residential neighborhoods outside such districts.
- (K) Vehicular movement and standards. The street design of any PUD shall include a clearly defined hierarchical street system. Streets, drives and parking must provide a safe and convenient access to dwelling units and project facilities and for service and emergency vehicles. Streets will not be laid out as to encourage outside traffic to traverse the development on minor streets or occupy more land than is required to provide access as needed or create unnecessary fragmentation of the development into small tracts. In general, tract sizes shall be the maximum consistent with use, shape of the site and for the convenience and safety of the occupants.

- (1) Vehicular access to other streets from off-street parking and service areas shall be combined, limited, located, designed and controlled as to channel traffic to and from such areas conveniently, safely and in a manner which minimizes marginal traffic friction and promotes free traffic flow on streets without excessive interruptions.
- (2) Principal vehicular access points shall be designed to permit smooth traffic flow with controlled turning movements and minimum hazards to vehicular or pedestrian traffic. Minor streets within PUDs shall not be connected to streets outside the development in such a way as to encourage their use by through traffic.
- (L) Pedestrian and Bicycle movement.
 - (1) Access for pedestrians and bicyclists shall be arranged to provide safe, convenient routes and need not be limited to the vehicular access points. To the maximum extent feasible, plans for proposed developments shall separate movement of pedestrians from movement of vehicles and bicycles, and protect bicyclists from conflicts with vehicles.
 - (2) In crosswalks and other areas where complete separation of movement of pedestrians from movement of vehicles and bicycles is not possible, plans shall minimize potential hazards by using special paving, grade separations, pavement parking, signs, striping, bollards, median refuge areas, traffic calming features, landscaping, lighting, or other means to clearly delineate pedestrian areas for both day and night use.
- (M) Comprehensive sign policy. The developer shall submit a proposed comprehensive signage policy as part of the Planned Unit Development outline plan. The proposed sign policy shall be consistent with the Town's adopted sign ordinance and design guidelines (Title 14, Chapters 4 & 5) and shall be reviewed and approved by the Design Review Commission. The Manual on Uniform Traffic Control Devices shall regulate traffic control signage.

(N) Site planning.

(1) Site planning within any PUD shall provide for the protection of the development from potentially adverse surrounding influences and shall also provide for the protection of surrounding areas from potentially adverse influences within the development, including, but not limited to area storm water management plans, hydrological

- studies, water and wastewater facilities, streets, noise and other environmental consideration.
- (2) All reports and plans shall be submitted to the Town Manager for review and approval and shall be made a part of the final site plan.
- (3) Site plans shall provide for safe, efficient, convenient and harmonious grouping of structures, uses and facilities and for the appropriate relation of space, inside and outside buildings to intended uses and structural features.
- 613.07 Specific Standards and Criteria for Residential Planned Unit Developments.

In addition to the general standards and general provisions set forth above, Residential Planned Unit developments shall comply with the requirements and standards which follow:

- (A) Permitted. Within the residential Planned Unit Development, the following uses are permitted subject to review of the Planning Commission and approval of the Town Council.
 - (1) Any permitted use, accessory use or conditional use allowed in any residential district.
- (B) Accessibility of site. All proposed streets and driveways shall be adequate to serve the residents, occupants, visitors or other anticipated traffic of the planned residential development, but may be designed so as to discourage outside through traffic from traversing the development. The location of the entrance points of the streets and driveways upon existing public roadways shall be subject to the approval of the Planning Commission.
- (C) Off-street parking. Off-street parking shall be conveniently accessible to all dwelling units and other uses. Where appropriate, common driveways, parking areas, walks and steps may be provided, maintained and lighted for night use. Screening of parking and service areas shall be required through the use of trees, shrubs, berms and/or hedges and screening walls.
- (D) Privacy.
 - (1) The residential Planned Unit Development shall provide reasonable visual and acoustical privacy for dwelling units within and adjacent to the residential Planned Unit Development.

- (2) Protection and enhancement of property values and the privacy of its occupants may be provided by the screening of objectionable views or uses and reduction of noise through the use of fences, insulation, natural foliage, berms and landscaped barriers.
- (E) Setback and bulk requirements. A residential Planned Unit Development shall not deviate from the setback and bulk requirements of the base residential zoning classification except as approved by the Town Council. A written justification for any deviation from the minimum setback and bulk requirements contained in the base residential zoning classification shall be presented by the applicant to the Planning Commission and Town Council for consideration.
- (F) Design. The following design standards shall be applied to all single-family dwellings or buildings containing more than one dwelling unit:
 - (1) Garages. Garage fronts shall be de-emphasized and not be the most prominent architectural feature of any dwelling in the development.
 - (2) Planned Unit Development Entrance Features shall comply with the provisions of the Town of Signal Mountain.

613.08 Procedures for Planned Unit Development Approval.

The provisions of this section govern the procedures for approval of all Planned Unit Developments provided herein.

- (A) Pre-application procedures.
 - (1) Pre-application meeting required. At least two months prior to filing any application for a Planned Unit Development, the prospective applicant shall request a pre-application conference with the Planning Staff for staff review of the proposed residential planned unit development based on the ordinances adopted by the Town.
 - (2) Planning Staff to provide comments. To obtain information, each applicant shall confer with the Planning Staff, Town Manager and relevant department heads in connection with the preparation of the Planned Unit Development application. It shall be the responsibility of the Planning Staff to contact the Town Manager and arrange a joint meeting. The general outlines of the proposal evidenced schematically by sketch plans are to be considered before submission of the Planned Unit Development application. Thereafter, the Planning Staff shall furnish the applicant with written comments

- regarding such conference, including appropriate recommendations to inform and assist the applicant prior to his or her preparing the components of the Planned Unit Development application.
- (3) Neighborhood meeting required. A neighborhood meeting is mandatory prior to the submission of applications for Outline Plan approval of a Planned Unit Development.
 - (a) The purpose of the neighborhood meeting is to educate owners of nearby lands about the proposed development and application, receive comments, address concerns about the development proposal, and resolve conflicts and outstanding issues, where possible. Neighborhood meetings are encouraged as opportunities for informal communication between owners of nearby lands, applicants, and other residents who may be affected by development proposals.
 - (b) The neighborhood meeting shall generally comply with the following procedures:
 - 1. Time and place. The neighborhood meeting shall be held at a place that is generally accessible to neighbors that reside in close proximity to the land subject to the application. It shall be scheduled after 5:00 p.m. on a weekday.
 - 2. Notification. The applicant shall provide notification of the neighborhood meeting a minimum of ten business days in advance of the meeting by mail, to all owners and occupants within 500 feet of the land subject to the application, to any neighborhood organization registered with the Town and to the Town Manager. The notification shall state the time and place of the meeting.
 - 3. Conduct of meetings. At the neighborhood meeting, the applicant shall explain the development proposal and application, answer any questions, and respond to concerns neighbors have about the application and proposed ways to resolve conflicts.
 - 4. Written summary of neighborhood record of meeting.
 The applicant shall provide to the Town Manager (or his or her designee) a written summary of the

neighborhood meeting within five business days of its conclusion. The written summary shall include a list of those in attendance, a summary of the issues related to the development proposal discussed, comments by those in attendance about the development proposal, and any other information the applicant deems appropriate. The written summary of the neighborhood meeting shall be included with the application materials, and be made available to the public for inspection.

- 5. Response to summary. Any person in attendance at the neighborhood meeting, within ten business days of the meeting, may submit an additional written summary stating their understanding of the issues related to the development proposal discussed, comments by those in attendance about the development proposal, and any other information they deem appropriate. This written summary may include a response to the applicant's written summary of the neighborhood record of meeting. All written summaries of the neighborhood meeting shall be included with the application materials, and shall be made available for public inspection.
- (B) Outline Plan. An Outline Plan shall be submitted to the Planning Commission with the application for the Planned Unit Development within six months of the pre-application conference and neighborhood meeting. An Outline Plan shall contain all items required by this section and shall include those items that the Planning Commission shall specify in rules published from time to time, as well as the following:
 - (1) Written documents.
 - (a) A legal description of the total site proposed for development, including a statement of present and proposed ownership and present and proposed zoning.
 - (b) A concise statement of planning objectives to be achieved by the PUD through the particular approach proposed by the applicant. This statement shall include a description of the character of the proposed development and the rationale behind the assumptions and choices made by the applicant.
 - (c) A development schedule indicating the approximate date when construction of the PUD or stages of the PUD can be

expected to begin and be completed. If the Planned Unit Development is proposed to be constructed in phases or units during a period extending beyond a single construction season, a development schedule indicating:

- 1. The approximate date when construction of the project can be expected to begin;
- 2. The order in which the phases of the project will be built; and
- 3. The minimum area and the approximate location of common open space and public improvements that will be required at each phase.
- (d) Quantitative data for the following: total number and type of dwelling units; parcel size; proposed lot coverage of buildings and structures (except for single-family detached residential structures); approximate gross and net residential densities; total amount of open space (including a separate figure for usable open space; minimum square footage of heated floor space for residential dwelling units; economic feasibility studies or market analysis where necessary and other studies as required by the Planning Commission.
- (e) A statement setting forth in detail:
 - 1. Any exceptions which are required from the zoning and subdivision regulations otherwise applicable to the property to permit the development of the proposed Planned Unit Development; and
 - 2. The bulk regulations under which the Planned Unit Development is proposed.
- (f) A tabulation setting forth maximum total land area, expressed in acres and as a percent of the total development area; minimum public and private open space; streets; and off-street parking.
- (2) Site plan and supporting maps. A site plan and any maps necessary to show the major details of the proposed PUD must contain the following minimum information:

- (a) The existing site conditions, including contours at two foot intervals, water courses, flood plains, unique natural features and forest cover;
- (b) Proposed lot lines and plot designs;
- (c) Architectural graphics including typical floor plans and elevations (an exemption from this requirement may be considered for single-family detached residential uses);
- (d) The location and floor size of all existing buildings, structures and other improvements and proposed non-single family detached residential buildings, structures and other improvements, maximum heights, floor area ratios (for nonresidential uses), types of dwelling units (for residential uses), density per type (for residential uses);
- (e) The location and size in acres or square feet of all areas to be conveyed, dedicated or reserved as common open space, public parks, recreational areas, school sites and similar public and semi-public uses;
- (f) The existing and proposed circulation system of arterial, collector and local streets, including off-street parking areas and major points of access to public rights-of-way (including major points of ingress and egress to the development). Notations of proposed ownership, public or private, shall be included where appropriate. (Detailed engineering drawings of cross sections and street standards shall be handled in the final site plan stage.) A detailed traffic impact analysis may be required at the discretion of the Town.
- (g) Any existing and proposed pedestrian and bicycle circulation system, including its interrelationships with the vehicular circulation system indicating proposed treatments of points of conflict.
- (h) The existing and proposed utility systems, including sanitary sewers, storm sewers, water lines and drainage.
- (i) A general landscape plan indicating the treatment of materials used for private and common open spaces.

- (j) Enough information on land areas adjacent to the proposed PUD to indicate relationships between the proposed development and existing and proposed adjacent areas, including land uses, zoning classifications, densities, circulation systems, public facilities and unique natural features of landscape.
- (k) The proposed treatment of the perimeter of the PUD, including materials and techniques used, such as screens, fences and walls.
- (l) Any additional information as required by the Planning Commission necessary to evaluate the character and impact of the proposed PUD.
- (m) The Planning Commission may, in its discretion, modify or waive any of the informational requirements contained in subsections (a) through (l) in order to reasonably adapt these requirements to a particular Planned Unit Development to facilitate an orderly application process. If any informational requirement is waived, however, provisions shall be made to supply such information in a form satisfactory to the development staff prior to final site plan approval.
- (C) Outline Plan approval process and effect of approval.
 - (1) At least 45 days prior to the Planning Commission meeting at which it is to be considered, the owner of the property or his or her agent shall submit to the Planning Commission the Outline Plan and a completed application form and all other information required under this section. The Planning Commission shall review the application and shall recommend to the Town Council whether to: approve, disapprove or approve the Planned Unit Development, subject to conditions. The Planning Commission may also defer a decision or take the matter under advisement until the next meeting.
 - (2) Any owner or his or her agent may appeal to the Town Council any recommendation or condition the Planning Commission imposes in the recommendations by filing written notice of appeal at least seven days prior to review by the Town Council. However, the applicant shall submit an Outline Plan to the Town manager incorporating any and all conditions, not appealed, within 90 days after the Planning Commission's decision on the requested PUD or the application shall be deemed withdrawn.

- (3) The Town Manager shall forward the recommendation of the Planning Commission and any notices of appeal to the Town Council.
- (4) The Town Council shall hold a public hearing on the application for the Planned Unit Development and the Outline Plan after receipt of recommendations from the Town Manager and any notice of appeal. The Town Council shall establish a date for a public hearing and shall cause notice thereof to be published in accordance with law at least 15 days prior to the hearing and shall mail written notice to owners of property within 500 feet of the subject project. The Town Council shall render a decision on any appeal and shall approve, disapprove or approve the proposed Planned Unit Development and Outline Plan subject to conditions and, if approved, shall set forth the conditions imposed.
- (5) The approved Outline Plan shall bind the applicant, owner and mortgagee, if any, and the Town of Signal Mountain with respect to the contents of such plan. A preliminary subdivision plat conforming to the Outline Plan shall be provided by the applicant in a form suitable for recording and shall be recorded at the Hamilton County Register of Deeds after receiving approval from the Town Council.
- (6) The Outline Plan shall be used in lieu of a Sketch Plan to comply with the provisions of the subdivision regulations pertaining to Sketch Plans.
- (7) The Planning Commission may amend or waive a development schedule upon submission of written justification by the applicant.
- (8) Unless as specified otherwise in this chapter, the approved Outline Plan of the Planned Unit Development shall control the development of the PUD rather than any other provisions of this chapter. In the absence of an express condition of the Planned Unit Development, the applicable ordinances and regulations of the Town will apply.
- (D) Steps of the approval process following Outline Plan approval. Development plans submitted as part of the Planned Unit Development shall be submitted in a form that will satisfy the requirements of the Subdivision Regulations for subdivision plats or zoning requirements for site plants.
- (E) Application/or preliminary subdivision plat/site plan approval.
 - (1) After an Outline Plan has been approved, the landowner shall submit an application to the Planning Commission for approval of a

preliminary subdivision plat or preliminary site plan, provided that such plats/plans are in substantial compliance with the Outline Plan. The submission of a preliminary subdivision plat or preliminary site plan will be based on the type of development and will follow the applicable requirements and review procedure for a preliminary subdivision plat or preliminary site plan.

- (2) The preliminary subdivision plat/site plan application shall include a copy of the Outline Plan showing the overall development, any applicable covenants and/or restrictions, conditions, and other required drawings and specifications as set forth by the approval of the Outline Plan.
- (F) Construction drawings. The construction drawings for either the entire development or a phase of the development shall be reviewed by the Town Manager and appropriate staff in accordance with the subdivision regulations and the town's stormwater ordinance.
- (G) Application/or final subdivision plat/site plan approval.
 - (1) After a preliminary subdivision plat/site plan has been approved, the landowner shall submit an application to the Planning Commission for approval of a final subdivision plat or final site plan, provided that such plats/plans are in substantial compliance with the preliminary plat/site plan and the Outline Plan. The submission of a final subdivision plat or final site plan will be based on the type of development and will follow the applicable requirements and review procedure for a final subdivision plat or final site plan.
 - (2) The final subdivision plat/site plan application conforming to all requirements in the Outline Plan and showing the overall development, any applicable covenants and/or restrictions, conditions, and any other required drawings and specifications set forth in the approved Outline Plan shall be recorded with the Hamilton County Register's office.
- (H) Zoning administration and permits. The Building Official may issue building permits for the area of the Planned Unit Development covered by an approved final subdivision plat or site plan for work in conformity with an approved final site plan and with all other applicable Town ordinances and regulations, including but not limited to building, plumbing, mechanical, gas, fire, and electrical codes. However, the Building Official shall not issue an occupancy permit for any building or structure shown on the final subdivision plat or site plan of any stage of the Planned Unit Development

unless the open spaces and public facilities allocated to that stage of the development schedule have been conveyed to the designated public agency or Homeowner's Association or a responsible party. The Building Official shall issue a certificate of occupancy for any completed building or structure located in an area covered by the approved final subdivision plat or site plan if the completed buildings or structures conform to the requirements of the approved final subdivision plat or site plan and all other applicable Town ordinances and regulations.

- (I) Reapplication if denied. If any application for a Planned Unit Development is denied by the Town Council, a reapplication pertaining to the same property and requesting the same or substantially similar Planned Unit Development may not be filed within 18 months from the date final action was taken on the previous application, unless such reapplication is initiated by the Planning Commission or authorized by the Town Council.
- (J) Procedure for amendment.
 - (1) A Planned Unit Development and the approved Outline Plan may be amended in accordance with the procedure which governed its approval as set forth in this section. However, no such amendment shall be required if the applicant only proposes a modification from what has been previously approved, and such modification is determined by the Planning Staff and the Town Manager as minor. As used in this context the term "minor" shall mean slight variations or alterations to the Outline Plan which cannot reasonably be expected to cause a change in the internal function of the site or its off-site impact. The Planning Staff may recommend that the Town Manager approve minor modifications when same are determined to be consistent with the Outline Plan. A request for a minor modification must be filed with the Town Manager stating the nature of the request and justification for same, as well as a proposed final site plan illustrating the proposed change, which shall be suitable for official recording in the land records of Hamilton County. If the Town Manager or Planning Staff determines the proposed modification is not minor, the applicant may seek an amendment in accordance with the procedure which governed the initial approval as set forth in this section.
 - (2) If an approved Planned Unit Development is ever subdivided, sold, or leased, all the owners of the subdivided, sold, or leased Planned Unit Development shall jointly apply for an amendment to the Outline Plan, which shall be governed by the procedures and requirements contained in this section for the approval of the Outline

Plan as well as current ordinances and regulations. (As replaced by Ord. #2013-5, April 2013)

Residential Estate District (R-E) (Ord. No. 95-9, 11/21/95)

The regulations set forth in this article shall apply to the district designation of the Residential Estate (R-E) District. The R-E District is intended to promote the preservation and establishment of areas for low-density residential development.

The R-E District is also intended to provide opportunities for personal recreational uses and the non-commercial use of a few animals for parcels with a minimum lot size of three (3) acres, subject to special exception approval by the Board of Zoning Appeals. (As replaced by Ord.#2006-15, Aug 2006, Ord. #2009-16, Aug. 2009, and Ord. #2013-18, Aug. 2013)

614.02 Permitted Uses (Ord. No. 95-9 - 11/21/95; Amended 10 - 2004)

- (1) Single-family detached dwellings, excluding factory manufactured homes constructed as a single self-contained unit and mounted on a single chassis;
- (2) Guest houses;
- (3) Private garages and parking areas;
- (4) Barns, stables, outbuildings and riding rings (for private use only);
- (5) Outdoor recreation facilities exclusively for the use of the residents;
- (6) Satellite dish receiving antennae:
- (7) Schools, day care centers or kindergartens operated by governmental units or religious organizations;
- (8) Parks, playgrounds and community buildings;
- (9) Golf courses (driving ranges, miniature golf courses and other similar commercial operations are not permitted);
- (10) Fire stations and other public buildings;
- (11) Churches;
- (12) Accessory uses and buildings customarily incidental and subordinate to the above:
- (13) Schools, day care centers or kindergartens, except those operated by governmental units or religious organizations, except that such uses shall require a special permit under the terms of Article XII of this Ordinance;
- (14) Day care homes;
- (15) Home occupation (See Section 303 of this Ordinance)
- (16) Garage sales, estate sales, rummage sales, and flea markets involving the sale of personal property by a resident on his/her property. The frequency of these sales at any one address shall not exceed four (4) days in any calendar year. (As amended by Ord. #2013-18, Sept. 2013)

614.02.01 Permitted Uses on Conservation Lands:

- (1) Village greens, commons, picnic areas, community gardens, trails, and similar low-impact passive recreation neighborhood uses, but specifically excluding the use of recreational motorized off-road vehicles.
- (2) Playing fields, playgrounds, courts, bikeways and other active noncommercial recreation areas, provided such areas do not consume more than half of the minimum required Conservation Lands or five acres, whichever is less.
 - a. No playing field, playground, court or bikeway shall be located within one hundred (100) feet of abutting residential properties.
 - b. Parking spaces for each facility are permitted and shall be gravel-surfaced, unlighted, properly drained, and shall provide safe ingress and egress.
- (3) Designed, landscaped water supply facilities, sewage disposal systems, and storm water detention areas available for use as an integral part of the Open Space.
- (4) Easements for drainage, access, sewer or water lines or other public purposes.
- (5) Underground utility rights-of-way. Above-ground utility and street rights-of-way may traverse conservation areas, but shall not count toward the minimum required open space within a Conservation Subdivision. (Added by Ord. #2013-18, Sept. 2013)
- 614.03 Height Density and Area Regulations (Ord. No. 95-9 11/21/95; Amended 1-20-99, 10 2004, and Ord. #2013-18, Sept. 2013)
 - (1) The maximum height of any building shall not exceed thirty-five (35) feet, except that a building may exceed those height regulations provided that for every one (1) foot of additional height over thirty-five (35) feet the building shall be set back one (1) additional foot from all property lines, provided, however, that in no event shall the building height of any building exceed forty (40) feet.
 - (2) The Maximum Number of Lots allowed in a development shall be derived by multiplying the Base Number of Lots determined by the calculations in Section 5.102.203 of the Subdivision Regulations by a density factor as specified below:

- a. For the Maximum Number of Lots in Conservation Subdivisions multiply the Base Number of Lots by a density factor of 1.
- b. For the Maximum Number of Lots in Conventional Subdivisions, multiply the Base Number of Lots by a density factor of .5.
- c. For the Maximum Number of Lots in Minor Subdivisions, multiply the Base Number of Lots by a density factor of 1.

Subdivision Type	Street Frontage	Front Setback	Side Set back	Rear Setback	*Minimum Lot Size (Sq. Ft.)	Maximum Lot Coverage
Conservation	***40'	***20'	10'	25'	10,890	40%
Conventional	***100'	***40'	15'	25'	43,560	35%
Minor Subdivision	*100'	***40'	15'	25'	43,560	35%

^{*}Lots on septic may be subject to additional acreage requirements as established by Hamilton County Groundwater Protection.

- ***See Section 614.07, "Criteria for livestock and other animals" to determine setbacks in the R-E District that apply when livestock is kept.
 - (3) The maximum number of principal buildings permitted shall be limited to one (1) principal building per lot plus one (1) guest house or employee quarters.
 - (4) On corner lots the front yard requirement shall apply to the side street side yard. The useable width on a "lot of record" for a conventional subdivision shall not be reduced to less than sixty (60) feet by this requirement. For conservation subdivisions, the useable width shall not be reduced to less than thirty (30) feet. (As replaced by Ord. #2013-18, Sept. 2013)

^{**}For minor subdivisions being developed within an existing subdivision, the developer shall use the most frequently occurring front setback on the street. The same shall apply to a single infill lot.

614.04 Parking Regulations (Ord. No. 95-9 11/21/95)

Off-street parking shall be provided on the same lot as the structure or on a Residential Estate District lot adjacent to the lot on which the structure of use is located in accordance with the following requirements:

- (1) Single-family dwellings: two (2) parking spaces.
- (2) Municipal, state or other governmental uses: one (1) parking space for every ten (10) seats or each two hundred (200) square feet of gross floor area, whichever is greater.
- (3) Public utilities: one (1) parking space for each two hundred (200) square feet of office space.
- (4) Golf courses: one (1) parking space for each three (3) members.
- (5) Places of worship:
 - (a) One (1) parking space for each five (5) seats provided in the main auditorium for every new place of worship.
 - (b) One (1) parking space for each five (5) seats provided in a new main auditorium construed by an existing place of worship.
 - (c) One (1) parking space for each five (5) additional seats added to an existing place of worship.
- (6) Any permitted uses not specifically listed: one (1) parking space for every two hundred (200) square feet of gross floor area.

614.05 Accessory Building (Ord. No. 95-9 - 11/21/95)

- (1) No accessory building shall be located in the required setbacks except as allowed in Article VIII, Section 813.04.
- (2) Accessory buildings shall not exceed eighteen (18) feet in height as measured at their highest point above grade.
- (3) All parts of all accessory buildings shall not be located closer than fifteen (15) feet to the principal building. (As amended by Ord. #2013-18, Sept. 2013, and Ord. #2014-01, Feb. 2014)

614.06 In-ground Swimming Pools (Ord. No. 95-9 - 11/21/95)

In-ground swimming pools shall be located behind the front line of the principal building, a minimum of five (5) feet from all property lines and recorded easements.

614.07 Criteria for Livestock and Other Animals (Ord. No. 95-9 - 11/21/95)

The RE District is also intended to provide opportunities for personal recreational uses and the non commercial use of a few animals for parcels with a minimum lot size of three (3) acres, subject to approval by the Board of Zoning Appeals.

- (1) All livestock and other animals shall be for private use only; there shall be no commercial operation permitted.
 - (a) The minimum lot size for horses shall be:
 - (1) For one (1) horse there shall be a three (3) acre site.
 - (2) For each additional horse, there shall be an additional two (2) acres required.
- (2) Livestock and other farm animals, other than horses, may be permitted by special exception from the Board of Zoning Appeals, subject to the following criteria:
 - (a) The minimum lot size shall be three (3) acres.
- (3) The minimum frontage for the uses permitted in this section shall be:
 - (a) Street frontage: one hundred fifty feet (150')
 - (b) Front setback: sixty feet (60')
 - (c) Side setback: twenty five feet (25')
 - (d) Rear setback: fifty feet (50')

(As replaced by Ord. #2014-01, Feb. 2014)

- (4) When property zoned R E Residential Estate borders any other zoning district, all animals, except dogs and cats shall be fenced or otherwise restricted from being closer than sixty (60) feet to the joint property line, except along lot lines which border a public street right of way.
- Residential Townhouse District (RTD): (Added 10 2004)
- 615.01 Statement of Intent:

It is the intent of this section to provide regulations for the development of townhouses (also called rowhouses and "attached" homes) in a manner which is attractive, efficient, and compatible with surrounding development. It is also the intent of these regulations that the underlying real estate may be divided into small lots so that each unit can, along with the underlying property, be individually sold and owned on a "fee simple" basis, although said units may also be sold as condominiums. It is further intended as a

policy that any townhouse development of more than 8 units should be located within 500' of a major arterial or collector as shown on the Future Land Use Plan Map most recently recommended by the Planning Commission and adopted by the Town Council.

All townhouses must be properly connected to a public, conventional, gravity sewer system. The maximum density for townhouses in any Residential Townhouse District shall be four (4) units per acre.

615.02 Permitted Uses:

- (1) Townhouse dwellings (excluding factory manufactured homes constructed as a single self-contained unit and mounted on a single chassis), provided that such townhouse dwellings shall meet all structural standards set forth in the Building Code adopted by the Town for townhouse construction.
- (2) Parks, playgrounds and community-owned not-for-profit buildings which are complementary to the immediate neighborhood.
- (3) Accessory uses and buildings customarily incidental and subordinate to the above.
- (4) Home occupations. (See Section 303 of this Ordinance)

615.03 Height and Area Regulations:

- (1) The building height of any building shall not exceed thirty-five (35) feet, except that a building may exceed those height regulations provided that for every one (1) foot of additional height over thirty five (35) feet, the building shall be set back one (1) additional foot from all non-zero lot line property lines, provided, however, that in no event shall the building height of any building exceed forty (40) feet.
- (2) The minimum building site area for each townhouse unit shall be one thousand two hundred fifty (1,250) square feet.
- (3) The minimum building site width for each unit shall be twenty (20) feet.
- (4) All buildings must be set back at least forty (40) feet from any exterior dedicated public street. Front setback from any interior street shall be twenty-five (25) feet, or ten (10) feet if rear parking and loading is provided.
- (5) Townhouse buildings (a continuous row of townhouse units) shall be separated by not less than forty (40) feet except fifteen (15) feet from end-to-end.

- (6) No building shall be located less than twenty-five (25) feet from any boundary of the Residential Townhouse District.
- (7) Except as provided above, there are no minimum front, side, or rear yard setback requirements.
- (8) Frontage on a dedicated public street of the individual units shall be required only when the underlying properties are individually sold as lots along with the units on a fee simple basis.
- 615.04 Off-Street Parking Regulations:

Off street parking shall be provided on the same lot as the structure or on a Residential Townhouse District lot adjacent to the lot on which the structure of use is located in accordance with the following requirements:

- (1) Two (2) parking spaces for every townhouse unit; and
- (2) One (1) parking space for every three (3) seats in a main auditorium for churches, schools and other public buildings.
- Provision for Special Access and Utility Easements:

Due to the special nature of residential townhouses and other types of "attached" housing allowed by these regulations, the Planning Commission may require special access easements and other arrangements to provide for adequate servicing of the structures even though such easements and provisions might not normally be specified in this Ordinance or the Subdivision Regulations. In addition, deed restrictions or other provisions may be required to assure that any remodeling or reconstruction of destroyed units will be accomplished in a fashion which will be compatible with the remaining units of the existing development, or for off-street parking of vehicles, and for any other reasonable design criteria deemed appropriate by the Planning Commission or the Town Council.

- Open Space Design Overlay Zone (Ord. #2000-2, Jan. 2000, and deleted by Ord. #2013-18, Sept. 2013)
- 617--621 (Repealed by Ord. #2009-16, Aug. 2009)

ARTICLE VII

NONCONFORMING USES

701. Non-Conforming Uses of Land

- The lawful use of land existing at the time of the passage of this Ordinance or any amendment thereto (the Zoning Ordinance and any amendments thereto are collectively referred to in this Article VII as the "Ordinance"), although such use does not conform to the provisions of the Ordinance, shall not be affected by the Ordinance, provided, however, that, subject to the provisions of Section 704, no such non-conforming use maybe enlarged, increased or extended to occupy a greater area of land than that occupied by such use at the time of the passage of the Ordinance.
- Subject to the provisions of Section 704, no such non-conforming use shall be moved in whole or in part to any portion of the lot or parcel other than that occupied by such use at the effective date of adoption or amendment of these regulations.
- 701.03 If any such non-conforming use of land ceases for any reason for a period of not less than one hundred (100) consecutive days, regardless of the intent of the owner or occupant of such premises to continue or discontinue such non-conforming use, any future use of such land shall be in conformity with the provisions of the Ordinance.
- Subject to the provisions of Section 704, no additional structure not conforming to the requirements of these regulations shall be erected in connection with such nonconforming use of land.

702. <u>Non-Conforming Structures</u>

- The lawful use of a structure existing at the time of the passage of this Ordinance shall not be affected by the Ordinance, although such use does not conform to the provisions of the Ordinance, and such use may be extended throughout any such structure, provided, however, that, subject to the provisions of Section 704, (a) no structural alterations, except those required by law or other Town ordinance, or ordered by an authorized officer to secure the safety of the structure, may be made therein and (b) no such use shall be extended to occupy any land outside such structures.
- 702.02 If such non-conforming structure is removed or the non-conforming use of such structure is discontinued for one hundred (100) consecutive days regardless of the intent of the owner or occupant of such structure to continue

or discontinue such use, every future use of such premises shall be in conformity with the provisions of the Ordinance.

Manufactured homes, existing on lots where manufactured homes are not a permitted use at the time of passage of the Ordinance, shall be treated as legal non-conforming uses as specified in this Article VII. Nothing in this Article VII shall prevent the replacement of a manufactured home that is a legal non-conforming use in a residential zone with another manufactured home, provided that a new building permit shall be issued for such manufactured home to the extent required by the Town, specifying that such other manufactured home meets all of the current regulations concerning plumbing, electrical and other codes applicable to such other manufactured

Nothing in this Ordinance shall be taken to prevent the restoration within one (1) year of a legal non-conforming structure (other than a manufactured home referenced in 702.05) that is destroyed to any extent by fire, explosion or other casualty, nor the continued occupancy of such structure. In the event that additional time is necessary to complete restoration of a structure destroyed by fire, explosion, or other casualty, an applicant may apply to the Town Council for an extension of time within which reconstruct a building or structure. The Town Council may approve a request for any necessary extension of time by resolution lawfully passed, provided, however, that no such extension or extensions of time shall exceed twelve (I2) months in the aggregate. In other words, in the event that the Town Council grants any request or requests for such an extension or extensions of time, such restoration must be completed within twenty-four (24) months after such destruction occurs.

Any lot that had a single use consisting of a legal non-conforming manufactured home in a residential zone, that is destroyed to any extent by fire, explosion or other casualty may, prior to the expiration of one hundred (100) consecutive days, have another manufactured home placed on the lot, provided that a new building permit shall be issued for such other manufactured home to the extent required by the Town, specifying that such other manufactured home meets all the current regulations concerning building, plumbing, electrical and other codes applicable to such other manufactured home.

Subject to the provisions of Section 704, if any non-conforming structure other than a manufactured home be moved any distance whatsoever for any reason, then such structure shall thereafter conform to this Ordinance and the regulations that are applicable to the district in which it is located after it has been moved.

home.

702.05

702.06

703. <u>Annexed Property Frontage</u>

If any property is annexed by the Town that does not meet the frontage requirements contained in the Ordinance and the Planning Commission determines that such property is capable of being re-subdivided to meet such requirements, then the owner of such property shall apply to the Planning Commission for such re-subdivision and such property shall be re-subdivided to meet such frontage requirements within one (1) year after such property is annexed by the Town.

Non-conforming Industrial, Commercial or Other Business Establishments

704.01

Any non-conforming industrial, commercial or other business establishment (as used in this Section 704, a "business") in operation and permitted to operate under zoning ordinances, regulations or exceptions thereto in effect at the time of the passage of this Ordinance or immediately preceding a change in zoning, as the case may be, shall be allowed to expand operations and construct additional facilities which involve an actual continuation and expansion of the activities of such business that were permitted and being conducted immediately prior to the passage of the Ordinance or the change in zoning, as the case may be, provided that the Town Council determines that there is a reasonable amount of space for such expansion on the property owned by such business situated in the area which is affected by the passage of the Ordinance or the change in zoning, as the case may be, so as to avoid nuisances to adjoining landowners. No building permit or like permission for construction or landscaping shall be denied to such a business seeking to expand and continue the activities conducted by such business that were permitted and being conducted immediately prior to the passage of the Ordinance or the change in zoning, as the case may be, provided that the Town Council determines that there is a reasonable amount of space for such expansion on the property owned by such business situated in the area which is affected by the passage of the Ordinance or the change in zoning, as the case may be, so as to avoid nuisances to adjoining landowners.

704.02

A business that is in operation and permitted to operate as a under zoning ordinances, regulations or exceptions thereto in effect at the time of the passage of the Ordinance or immediately preceding a change in zoning, as the case may be, shall be allowed to destroy existing facilities and reconstruct new facilities necessary to the conduct of such business subsequent to the passage of the Ordinance or the change in zoning, as the case may be, provided that no destruction and rebuilding shall occur which shall act to change the use classification of the land as classified under the Ordinance and any other zoning ordinances, regulations or exceptions thereto in effect immediately prior to or subsequent to the passage of the Ordinance or such change in zoning of the land on which such business is located, as the case

may be, and provided further that the Town Council determines that the intended expansion or reconstruction constitutes the continuation or expansion of an activity of such business that existed and was being conducted at the time of the passage of the Ordinance or such change in zoning of the land on which such business is located, as the case may be, and not the undertaking of a new, different or additional commercial, industrial or other business activity. No building permit or like permission for demolition, construction or landscaping shall be denied to a business seeking to destroy and reconstruct facilities necessary to the continued conduct of the activities of that business, where such conduct was permitted immediately prior to the passage of the Ordinance or a change in zoning, provided that the Town Council determines that there is a reasonable amount of space for such expansion on the property owned by such business situated in the area which is affected by the passage of the Ordinance or the change in zoning, as the case maybe, so as to avoid nuisances to adjoining landowners.

The provisions of this Section 704 shall apply only to land owned and in use by such affected business and shall not operate to permit expansion of an existing business through the acquisition of additional land. (as replaced by Ord.#2006-6, June 2006)

ARTICLE VIII SUPPLEMENTARY DISTRICT REGULATIONS

801. Regulations Which Apply in Groups of Districts or Generally in All Districts:

In addition to regulations indicated for individual districts in the Schedule of District Regulations, the regulations below apply in groups of districts or generally in all districts.

- 802. <u>Visibility at Intersections and Curves</u>: (Amended 10 2004)
- On a corner lot or on a lot that is on a curve of a public street or alley, no fence, wall, hedge, or other planting or structure that will obstruct vision between a height of three (3) feet and ten (10) feet above the centerline grades of the intersecting streets shall be erected, placed, or maintained, within the triangular area formed by the right of way lines at such corner lots and a straight line joining said right of way lines at points which are:
- Fifteen (15) feet distance, in industrial and commercial districts, and;
- Twenty-five (25) feet distance in residential districts from the intersection of the right of way lines and measured along said right of way lines;
- No fence or wall shall be permitted in the front setback that materially impedes vision across the setback above the height of four feet (4'). No hedge or other vegetation shall be permitted in the front setback that materially impedes vision across the setback between the height of four (4') and ten feet (10'). Fences, walls and hedges may be permitted in any side or rear setback except as otherwise provided in these regulations. (Amended 10 2004, and replaced by Ord. #2014-01, Feb. 2014)
- 804. (Deleted by Ord. #2013-18, Sept. 2013)
- 805. Exceptions to Height Regulations:

The height limitations contained in this Ordinance do not apply to spires, belfries, cupolas, antennas, water tanks, ventilators, chimneys, elevator housings, or other appurtenances usually required to be placed above the roof level and not intended for human occupancy. Such appurtenances must comply with the provisions of all pertinent codes and ordinances, and further must be located at a distance equal to their own height plus ten (10) feet from the nearest property line. (As amended by Ord. #2013-18, Sept. 2013)

- 806. <u>Structures to Have Access:</u>
- No building permit shall be issued for a building or use on a lot which does not:
- Abut on an already constructed, dedicated, and publicly accepted municipal or county street or road; or
- Abut on a street in a subdivision which has received final approval but not yet recorded and for which proper bond has been posted; or
- Abut on an easement (Applicable only in those cases existing as of the date of this amendment) of not less than twelve (12) feet wide which provide access to a publicly accepted municipal or county street or road.
- 807. Parking and Storage of Certain Vehicles:

Automotive vehicles of any kind or type without current license plates shall not be parked or stored in any residentially zoned property other than in completely enclosed buildings. (Amended 11-11-91)

808. <u>Side and Rear Yard Requirements for Non Residential Uses Abutting</u>
Residential Property:

Non-residential buildings or uses shall not be located nor conducted within twenty five (25) feet of any lot line of a residential district, except that the minimum side yard requirements may be reduced to fifteen (15) feet if acceptable landscaping or screening approved by the Building Inspector is provided. Such screening shall be a masonry or solid fence between four (4) and eight (8) feet in height maintained in good conditions and free of all advertising or other signs. Landscaping provided in lieu of such wall or fence shall consist of a strip of land not less than ten (10) feet in width planted with an evergreen hedge or dense planting of evergreen shrubs not less than four (4) feet in height at the time of planting. Either type of screening shall not obscure traffic visibility within twenty-five (25) feet of an intersection.

809. Architectural Projections:

Open structures such as porches, canopies, balconies, carports, covered patios, and similar architectural projections shall be considered parts of the building to which attached and shall not project into front, side, or rear setbacks. (As replaced by Ord. #2014-01, Feb. 2014)

810. Conversions:

A two family dwelling may be built on any lot which was an undivided parcel at the time of passage of these regulations, or a single family dwelling or other structure may be converted to a two family dwelling (subject to all applicable building codes, etc.) in any zoning district where duplexes are permitted, provided that the setback requirements are met and that the lot area equals or exceeds eighty percent (80%) of that required for duplexes by the district regulations. (As replaced by Ord. #2014-01, Feb. 2014)

811. <u>Curb-cuts, Access, Parking and Loading Areas</u>: (Amended 9-21-92)

The location and design of all curb cuts, points of access to and from all streets and parking and loading areas, for all uses shall be submitted to and approved by the Building Inspector before building permits can be issued.

- a. If curb exists, Street Department shall direct the method of tying drive in with roadway.
- b. If concrete drive is installed, there shall be either expansion joint, troweled joint or saw cut across the drive at the street right of way.
- c. If no curb exists or if a culvert is required, Street Department will size the culvert which will be either concrete or asphalt coated 14 gauge steel.
- d. No feather joints at point of contact with street paving is allowed.
- e. No open drainage easements or spillways to be enclosed without written approval from the Town of Signal Mountain.

812. Public and Utility Uses Permitted in All Districts:

- Subject to review and approval of the Board of Zoning Appeals, public facilities and utility uses shall be permitted in all districts as necessary to maintain or improve the comfort, safety, and convenience of the general public provided that whenever possible front, rear, and side setback requirements and other restrictions specified for the district involved shall be met and further provided that all reasonable efforts must be made by the developer to make the public or utility use compatible with its surrounding through the use of landscaping, screening, or other devices as the Board of Zoning Appeals may require. (As replaced by Ord. #2014-01, Feb. 2014)
- In reviewing the proposed facility or utility use, the Board of Zoning Appeals shall follow the same procedure as set forth for the consideration and approval of "Special Exceptions" in Article XI, Section 1103 of these regulations.

813. <u>Accessory Structures</u>:

Accessory Structures shall be constructed in conjunction with, or after, the principal building is lawfully approved and use is established. (As replaced by Ord. #2014-02, April 2014)

813 .02 Location:

- a. Accessory structures shall be behind the front plane of the principal building or two hundred feet (200') from the front property line, whichever is less.
- b. All accessory structures shall be subject to the same side and rear setback requirements as the principal building and shall be a minimum of fifteen feet (15') from any other building.
- c. Accessory structures shall not encroach on public rights-of-way or utility easements.
- d. If any accessory building becomes structurally attached to a principal building, it shall be deemed to be part of the principal building and shall conform to all the regulations, which apply to principal buildings in the respective Zoning District.
- e. No accessory building shall be used for living quarters. (As replaced by Ord. #2014-02, April 2014)

813.03 Exceptions:

- Architectural Yard Features within residential districts are not required to comply with setbacks but shall not be located within rights-of-way. Architectural yard features may include:
 - 1) Landscaping features such as planters, arbors, and trellises that do not exceed ten feet (10') in height as measured at the highest point.
 - 2) Water features including, but not limited to, fountains, waterfalls, and decorative man-made ponds.
 - 3) Sculptures. (As replaced by Ord. #2014-02, April 2014)
- Small storage buildings, not larger than twelve feet by twelve feet (12' x 12') and with a maximum height to the low point of the eaves of six feet (6'), may be located in the side and rear yards provided that:

- (1) The buildings shall be set back at least five feet (5') from the side and rear lot lines behind the front plane of the principal building.
- (2) In the case of a corner lot, the accessory building may not project into the side setback adjacent to the street.
- (3) A site permit is required. (As replaced by Ord. #2014-02, April 2014)
- News and refreshment stands, recreation and service buildings in connection with (and on the premises of) parks, playgrounds, golf courses and public utility facilities. (As replaced by Ord. #2014-02, April 2014)
- Real estate offices of a temporary character when built according to plans and in locations approved by the Board of Zoning Appeals. (3-12-84, as replaced by Ord. #2014-01, Feb. 2014, and Ord. #2014-02, April 2014)

813.03.05 Satellite dishes:

- (1) Ground-mounted satellite dishes shall be set back at least five feet (5') from the side and rear lot lines, and
- (2) No ground-mounted satellite dish shall be located in front of the front plane of the house or in the case of a corner lot, shall not project into the side setback adjacent to the street.
- (3) Roof-mounted dishes may not exceed three feet (3') in diameter. Multiple roof-mounted dishes may not exceed a total of three feet (3') in diameter per residential structure. (3/12/84, as replaced by Ord. #2014-02, April 2014)

813.03.06 Generators:

- (1) Generators shall be subject to the same setbacks as the principal structure.
- (2) A site permit is required. (As added by Ord. #2014-02, April 2014)

814. Measurement of Front Yard Depth from Future Street Lines:

In any location for which an official highway plan of Hamilton County has been adopted, establishing definite future widths for highways, the front yard depth required in any district shall be measured from the proposed street or highway lines as shown upon the official highway maps, instead of from the front lot line as described in the regulations for the several districts.

815. Repealed April 19, 1999 by Ord. No. 99-8.

816. Side Setbacks on Corner Lots:

On corner lots in the residential districts, the side setback shall be twenty feet (20'). On corner lots in the Specialty Commercial District, the Highway Commercial District, the Planned Commerce Center District, and the Office District, the minimum width of such side setbacks shall be fifteen feet (15'). Fences and walls not more than six feet (6') high may be erected, but no fence, wall, or shrubbery shall be maintained within twenty five feet (25') of any street intersection so as to interfere with traffic visibility around the corner. (Amended 10 - 2004, and by Ord. #2014-01, Feb. 2014)

817. <u>Setbacks for Small Lots of Record</u>: If a lot of record is smaller than the current minimum lot size in the district, the ratio of the lot size in square feet to the minimum lot size in square feet shall be determined. The same ratio will be used to determine the setbacks for the small lot of record.

Example: If the ratio is 75% then the required setbacks shall be multiplied by 75% to determine the setbacks for the small lot. (As replaced by Ord. #2013-18, Sept. 2013)

818. Greenbelt Planting and Strip Maintenance:

In any circumstance where a greenbelt planting strip is required by this Ordinance, the property owner is responsible for maintenance and replacement of all required plant material.

819. Minimum Finished, Heated, Livable Floor Space (11-12-90)

All residential buildings shall have a minimum of Twelve Hundred Fifty (1,250) square feet of finished, heated, livable floor space.

820. Swimming Pools:

All swimming pools shall be located behind the front line of the principal structure. In-ground swimming pools can infringe on setbacks but shall be at least five feet (5') from the property line and all recorded easements. Above ground swimming pools must meet all setbacks. All swimming pools must be enclosed by a fence or wall at least five feet (5') in height (or as otherwise specified in any applicable building codes) and maintained in good condition

with a self-closing and self-latching gate. (As added by Ord. #2014-02, April 2014)

ARTICLE IX ADMINISTRATION AND ENFORCEMENT: BUILDING PERMITS AND CERTIFICATES OF ZONING COMPLIANCE

901. Administration and Enforcement:

A building inspector designated by the Town Council shall administer and enforce these regulations. He may be provided with the assistance of such other persons as the Town Council may direct.

902. <u>Violations</u>:

If the Building Inspector shall find that any of the provisions of these regulations are being violated, he shall notify in writing the person responsible for such violations, indicating the nature of the violation and ordering the action necessary to correct it. He shall order discontinuance of illegal use of land, buildings, or structures; removal of illegal buildings or structures or illegal additions, alterations, or structural changes, discontinuance of any illegal work being done; or shall take any other action authorized by these regulations to ensure compliance with or to prevent violations of provisions set forth herein.

903. <u>Building Permits Required</u>: (Amended 1-9-95)

No person, firm, or corporation shall erect, construct, enlarge, alter, repair, move, improve, remove, convert, or demolish any building or structure within the jurisdiction of these regulations or cause the same to be done, without first obtaining a separate building permit for each such building or structure from the Town Manager of Signal Mountain. No building permit shall be issued by the Town Manager of Signal Mountain except in conformity with the provisions of these regulations, unless he receives a written order from the Board of Zoning Appeals in the form of an administrative review, special exception, or variance as provided by these regulations. (Ord. No. 95-1 - 1/9/95)

904. <u>Application for Building Permit</u>:

When required by the Building Inspector two (2) or more copies of specifications, and of drawings drawn to scale with sufficient clarity and detail to indicate the nature and character of the work, shall accompany each application. Such drawings and specifications shall contain information in the form of notes or otherwise, as to the quality of materials, where quality is essential to conformity with the Southern Standard Building Code. Such information shall be specific, and the Building Code shall not be cited as a

whole or in part, nor shall the term "legal" or its equivalent be used, as a substitute for specific information.

- The Building Inspector may require details, computations, stress diagrams, and other data necessary to describe the construction and basis of calculations and shall bear the signature of the person responsible for the design.
- All drawings and specifications for buildings and structures shall bear the signature of the owner or his agent.
- One (1) copy of the plans shall be returned to the applicant by the Building Inspector, after he shall have marked such copy either as approved or disapproved and attested to same by his signature on such copy. The original and one (1) copy of the plans similarly marked shall be retained by the Building Inspector.
- 905. Zoning Compliance for New, Altered, or Non-Conforming Uses:
- 905.01 It shall be unlawful to use or occupy or permit the use or occupancy of any building or premises, or both, or part thereof, hereafter created, erected, changed converted, or wholly or partially altered or enlarged in its use or structure until an approval of zoning compliance is given by the Building Inspector, stating that the proposed use of the building or land conforms to the requirements of these regulations.
- 905.02 (Deleted 10 2004)
- No permit for erection, construction, enlargement, alteration, repair, moving, improving, removing, converting, or demolishing any building or structure shall be issued unless and until the proposed work is determined to be in conformance with these regulations. Approval of zoning compliance shall be granted upon completion of the work in conformity with the provisions of these regulations.
- Temporary approval of zoning compliance may be issued by the Building Inspector for a period not exceeding six (6) months during alterations or partial occupancy of a building pending completion, provided that such temporary approval may include such conditions and safeguards as will protect the safety of the occupants and the public.
- 905.05 The Building Inspector shall record his approvals of zoning compliance on the building permit form and a copy shall be furnished to any person on request.

906. <u>Construction and Use to Be as Provided in Applications, Plans, and Permits:</u>

Building permits issued on the basis of plans and applications approved by the Building Inspector authorize only the use, arrangement, and construction set forth in such approved plans and applications, and no other use, arrangement, or construction. Use, arrangement, or construction at variance with that authorized shall be deemed violation of these regulations and punishable as provided by Article XXI hereof.

ARTICLE X BOARD OF ZONING APPEALS: ESTABLISHMENT & PROCEDURE

1001. Board of Zoning Appeals: Establishment and Membership:

A Board of Zoning Appeals is hereby established which shall consist of five (5) members appointed by the Town Council. The term of office of the members of the Board shall be for three (3) years and shall be so arranged so that one (1) term shall expire for each year. Members of the Board of Zoning Appeals may be removed from office by the Town Council for cause upon written charges and after a public hearing. Vacancies shall be filled by resolution of the Town Council for the unexpired term of the member affected.

1002. <u>Proceedings of the Board of Zoning Appeals</u>:

- The Board shall adopt rules necessary to the conduct of its affairs in accordance with the provisions of these regulations. Meetings of the Board of Zoning Appeals shall be held at the call of the Chairman, or in his absence, the acting Chairman, may administer oaths and compel the attendance of witnesses. All meetings shall be open to the public.
- The Board shall keep minutes of its proceedings showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the Board located in the Signal Mountain Town Hall and shall be a public record.

1003. Appeals, Hearings, Notice:

Apeals to the Board concerning interpretation or administration of these regulations may be taken by any person aggrieved by any officer, department, board, or bureau of the Town affected by any decision of the Building Inspector. Such appeals shall be taken within a reasonable time as provided by the rules of the Board by filing with the Building Inspector and with the Board of Zoning Appeals a notice of appeal specifying the grounds thereof.

- Persons objecting to the relief sought by the applicant or interested in the review made by the Board may likewise submit their views and evidence in writing to the Board within the time provided in its rules of procedure.
- The Building Inspector shall forthwith transmit to the Board all the papers constituting the record upon which the action appealed from was taken.

1003.04

The Board of Zoning Appeals shall fix a reasonable time for the hearing of appeal, give public notice thereof as well as due notice to the parties in interest, and decide the same within a reasonable time. At the hearing, any party may appear in person or by agent or attorney.

1004. <u>Stay of Proceedings</u>:

An appeal stays all proceedings in furtherance of the action appeal from, unless the Building Inspector certifies to the Board of Zoning Appeals after the notice of appeal is filed with him, that a stay would, in his opinion, cause imminent peril to life or property. In such cases proceedings shall not be stayed other than by a restraining order which may be granted by the Board or by a court of record on application, on notice to the Building Inspector and on due cause shown.

ARTICLE XI BOARD OF ZONING APPEALS POWERS AND DUTIES

1101. Powers and Duties:

The Board of Zoning Appeals shall have the following powers and duties:

1102. <u>Administrative Review</u>:

To hear and decide appeals where it is alleged by the appellant that there is error in any order, requirement, permit, decision, or refusal made by the Building Inspector, or any other administrative official in the carrying out or enforcement of any provision of these regulations.

- 11.03. Special Exceptions, Conditions Governing Applications Procedures:
- To hear and decide only such requests for special exceptions or for interpretation of the map or for decisions upon other special questions as the Board of Zoning Appeals is specifically authorized to pass upon the terms of these regulations; to decide such questions as are involved in determining whether special exceptions should be granted; and to grant special exceptions with such conditions and safeguards as are appropriate under these regulations, or to deny special exceptions when not in harmony with the intent and purpose of these regulations. A special exception shall not be granted by the Board of Zoning Appeals unless and until:
- 1103.01.01 A written application for a special exception is submitted indicating the section of these regulations under which the special exception is sought and stating the grounds on which it is requested.
- Notice of public hearing shall be given at least fifteen (15) days in advance. The owner of the property for which special exception is sought or his agent shall be notified by mail. Notice of such hearings shall be posted in a conspicuous manner on the property for which special exception is sought, at the Signal Mountain Town Hall, and in one other public place at least fifteen (15) days prior to the public hearing.
- The public hearing shall be held. Any party may appear in person, or by agent or attorney.
- The Board of Zoning Appeals shall make a finding that it is empowered under the section of these regulations described in the application to grant the special exception, and that the granting of the special exception will not adversely affect the public interest.

- Before any special exception shall be issued, the Board shall make written findings certifying compliance with specific rules governing individual special exceptions and that satisfactory provision and arrangement has been made concerning the following, where applicable:
- 1103.01.05.01 Ingress and egress to property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe.
- 1103.01.05.02 Off street parking and loading areas where required, with particular attention to the items in (1) above and the economic, noise, glare, or odor effects of the special exception on adjoining properties and properties generally in the district.
- 1103.01.05.03 Refuse and service areas, with particular reference to the items in (1) and (2) above.
- 1103.01.05.04 Utilities, with reference to locations, availability, and compatibility.
- 1103.01.05.05 Screening and buffering with reference to type, dimensions, and character.
- 1103.01.05.06 Signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect, and compatibility and harmony with properties in the district.
- 1103.01.05.07 Setbacks and other open space. (As amended by Ord. #2014-01, Feb. 2014)
- 1103.01.05.08 General compatibility with adjacent properties and other property in the district.
- 1103.01.05.09 In granting any special exception, the Board of Zoning Appeals may prescribe appropriate conditions and safeguards in conformity with these regulations. Violation of these conditions and safeguards shall be deemed a violation of these regulations and punishable under Section XXI, "Penalties for Violation."
- 1104. Variances; Conditions Governing Applications, Procedures:
- To authorize upon an appeal in specific cases such variance from the terms of these regulations where, owing to special conditions, the strict application of the provisions of these regulations would result in undue hardship upon a property owner. Such variance shall not be authorized unless such relief may be granted without substantial detriment to the public good and without substantial impairment of the intent and purpose of the zoning plan and these

- regulations. A variance from the terms of the regulations shall not be granted by the Board of Zoning Appeals unless and until:
- 1104.01.01 A written application for a variance is submitted demonstrating:
- 1104.01.01.01 That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same district.
- 1104.01.01.02 That literal interpretation of the provisions of these regulations would deprive the applicant of rights commonly enjoyed by other properties in the same district under terms of these regulations.
- 1104.01.01.03 That the special condition and circumstances do not result from the actions of the applicant.
- 1104.01.01.04 That granting the variance requested will not confer on the applicant any special privilege that is denied by these regulations to other lands, structures, or buildings in the same district.
- 1104.01.02 No non-conforming use of neighboring lands, structures, or buildings in the same district, and no permitted or non-conforming use of lands, structures, or buildings in other districts shall be considered grounds for the issuance of a variance.
- 1104.01.03 Notice of public hearing shall be given as in Section 1103 above.
- The public hearing shall be held. Any party may appear in person, or by agent, or by attorney.
- he Board of Zoning Appeals shall make findings that the requirements of Section 1104 have been met by the applicant for a variance.
- The Board of Zoning Appeals shall further make a finding that the reasons set forth in the application justify the granting of the variance, and that the variance is the minimum variance that will make possible the reasonable use of the land, building, or structure.
- The Board of Zoning Appeals shall further make a finding that the granting of the variance will be in harmony with the general purpose and intent of these regulations, and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare.
- In granting any variance, the Board of Zoning Appeals may prescribe appropriate conditions and safeguards in conformity with these regulations.

Violation of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of these regulations and punishable under Section XXI of these regulations.

- 1105. <u>Board Has Powers of Building Inspector on Appeals; Reversing Decision of Building Inspector:</u>
- In exercising the above mentioned powers, the Board of Zoning Appeals may, so long as such action is in conformity with the terms of these regulations, reverse or affirm, wholly or partly, or may modify the order, requirements, decision, or determination appealed from and may make such order, requirement, decision, or determination as ought to be made, and to that end shall have the powers of the Building Inspector from whom the appeal is taken.
- The concurring vote of three (3) members of the Board shall be necessary to reverse any order, requirement, decision, or determination of the Building Inspector or to decide in favor of the applicant on any matter upon which it is required to pass upon these regulations, or to effect any variation in the application of these regulations.

ARTICLE XII BOARD OF ZONING APPEALS VARIANCES AND SPECIAL PERMITS

1200.

The Board of Zoning Appeals is empowered to hear and decide whether special permits shall be issued as proposed, based on a site plan map furnished by the applicant and other supporting documentation as appropriate. It is a requirement that the applicant for a special or conditional permit furnish a site plan with the application that depicts the proposed use of the property to include but not limited to site access, building configuration, building setback, proposed landscaping and drainage and a parking plan. The Board of Zoning Appeals shall determine that the proposed use will not be in conflict with the adopted plans and zoning districts of the Town. In consultation with appropriate Town departments, the Board shall review all plans for the points of ingress and egress, parking and loading facilities, provision for drainage and storm water, landscaping and screening (where any Town ordinance requires the Design Review Commission's review and approval, the Design Review Commission's review and approval shall also be required), and all applicable building codes that may impact the proposed use, the building and site. In addition, other criteria, including but not limited to noise, traffic generated by the proposed use, odors, et cetera that may be detrimental to the public health, safety or welfare of adjacent property owners and the surrounding community may be considered by the Board of Zoning Appeals when hearing and deciding whether special permits and/or conditional permits shall be issued in the following areas and with respect to the following uses in any district in which such uses are expressly permitted, as well as any other uses where any applicable district regulation specifies that a special permit shall be required under Article XII from the Board of Zoning Appeals or the Town Council, as the case may be:

- 1200.01 For fraternal, professional or hobby clubs in the Office District;
- 1200.02 From the Town Council for hospitals, nursing homes, assisted living facilities and residential homes for handicapped and/or aged persons operated on a commercial basis in any district in which they are a permitted use;
- 1200.03 For schools, day care centers or kindergartens other than those operated by governmental units or religious organizations in the High Density Residential District and Office District;
- For schools, day care centers or kindergartens, except those operated by governmental units or by religious organizations, in Low Density Residential District and Moderate Density Residential District provided the following conditions are met:

- 1200.04.01 A minimum lot area of one acre is required for any number of students or children up to and including 40. There shall be 1000 square feet of additional lot area per child or student in excess of 40.
- 1200.04.02 The place shall be the occupied residence of the primary care giver. (Added 10 2004)
- 1200.04.03 There shall be at least 50 square feet of outdoor play area per child of 12 years old or less. This play area must be located outside the required front yard and side yard when adjacent to an abutting street.
- Outdoor play areas must be enclosed by a 70% opaque, sight obscuring, wood or wood appearing fence that is at least 6' high, extends to the ground and is constructed in such a way as to prevent the youngest anticipated child from going through or under it, or a less sight obscuring fence which, with existing natural screening, obstructs the play area from view by adjacent properties on the sides and rear.
- There shall be at least two off street parking spaces per dwelling unit plus one additional off street parking space per 400 square feet of gross floor area or portion thereof used for school, kindergarten, or day care purposes. There shall also be at least one additional off street parking space for every two students of 16 years age or older.
- 1200.04.06 Parking and drives shall be designed so that there is no back out parking or drives onto any public street. No parking area may be located in a public road right of way.
- 1200.04.07 Loading and unloading areas must be provided on the lot. No loading or unloading areas are permitted on a public street or in a public street right of way.
- 1200.04.08 The applicant must meet all State requirements for facilities, safety, adult supervision, etc.
- 1200.04.09 The applicant must obtain all appropriate State licenses, etc.
- 1200.04.10 In each case, the Board of Zoning Appeals shall find that the use, where proposed, will be in harmony with the general intent and purpose of the zoning regulations and shall require such setbacks, screening, landscaping, appearance, ingress and egress controls, sign controls, as reasonable controls so as to make the conditional property use compatible with surrounding property uses, and in conformance with the general intent and purposes of the Zoning Regulations. (As replaced by Ord. #2014-01, Feb. 2014)

- 1200.04.11 The applicant shall submit a scaled site plan (minimum 1=100') which must include at least the following information:
 - a. outer lot boundaries and dimensions and total lot area
 - b. a verbal and graphic scale
 - c. adjoining streets and alleys
 - d. adjoining lot numbers or owners' names of unsubdivided property
 - e. building locations
 - f. outdoor play area locations
 - h. nature and design of screening fences and facilities
 - i. ingress and egress points
 - j. drive and parking locations and design
 - k. loading and unloading areas
 - 1. the number and age distribution of anticipated children and students
 - m. the total square footage of buildings and the square footage devoted to school, day care or kindergarten purposes (Section 1200.03.01 to 1200.03.01.11 added 11-11-91)
- 1200.05 Repealed by Ord. No. 99-3 on January 11, 1999.
- 1200.06 For small animal hospitals and veterinary offices in the Office District, Highway Commercial District, Community Commercial District and Planned Commerce Center District (9-18-89)
- For open air markets in the Highway Commercial District and Planned Commerce Center District (3 11 91) provided that the following conditions are met:
- 1200.07.01 Parking shall be provided at a rate of two (2) spaces for every stall, booth or vendor's lot; or (alternatively) at least two thirds (2/3) of the entire site shall be set aside as the usable customer parking space.
- 1200.07.02 Access and egress to public streets shall be established and maintained in a manner approved by the Town Council.
- 1200.07.03 Public sanitary facilities shall be provided as follows:
- 1200.07.03.01 Whenever business is conducted on undeveloped property zoned for open air markets, sanitary facilities, including but not limited to, toilets, water and trash containers, will be made available at the start of each business day.
- 1200.07.03.02 Either permanent toilet fixtures or portable facilities approved for public use by the Chattanooga-Hamilton County Health Department shall be made available in the following ratio:

- 1200.07.03.02.01 Property less than one (1) acre: two (2) toilet units shall be provided.
- 1200.07.03.02.02 Property one (1) to three (3) acres: four (4) toilet units shall be provided.
- 1200.07.03.02.03 Property more than three (3) acres: six (6) toilet units shall be provided.
- 1200.07.03.03 All portable toilets will be emptied, sanitized, and serviced not less than two (2) times a week, or more frequently if needed, and the contents emptied in an approved waste water treatment facility.
- 1200.07.03.04 Potable drinking water, either under pressure or furnished in an approved dispenser, will be made available so there will be a drinking fixture or dispenser for each acre of used property or fraction thereof. Single service cups, in an approved dispenser, will be made available so there will be a drinking fixture or dispenser for each acre of used property or fraction thereof. Single service cups, in an approved dispenser, will be made available.
- 1200.07.03.05 A covered trash receptacle, capable of holding not less than ten (10) gallons, will be made available by each vendor who leases, rents or is furnished space to barter to sell merchandise. All trash and debris must be picked up and removed from the area, curb, or street by the close of the business day.
- 1200.07.04 A board or chain link fence at least four (4) feet high shall be erected along any property boundary adjacent to a school, church, or residential land use.
- Alteration or deletion of any parking space or sanitary facility or abridgment of any condition agreed to at the time of issuance of the special permit shall constitute grounds for revocation of the special permit. Upon verification by the Building Inspector that such alteration, deletion, or abridgment has occurred, the operator of the open air markets shall be summoned before the Board of Zoning Appeals to show cause why the special permit should not be permanently revoked. Failure to appear or failure to correct deficiencies found by the Board within ten (10) days following the hearing shall result in automatic revocation of the special permit, and the operator shall cease to use the property as an open-air market until such time as a new special permit is applied for and received.
- In each case, it shall find that the use where proposed will be in harmony with the general intent and purpose of the Zoning Regulations and shall require such setbacks, screening, landscaping, ingress and egress controls, sign controls, as reasonable controls so as to make the conditional property use compatible with surrounding property uses, and in conformance with the general intent and purpose of the Zoning Regulations. (As replaced by Ord. #2014-01, Feb. 2014)

1200.08 Adult-Oriented Establishments:

For adult-oriented establishments in the Highway Commercial District provided that the use meets the following definitions, conditions, restrictions and other provisions:

1200.08.01 Definitions:

For the purpose of these regulations, certain terms and words shall be defined as follows:

1200.08.01.01 Adult: Any person who is eighteen (18) years of age or older.

- 1200.08.01.02 Adult-oriented Establishments: Sexually explicit establishments which cater to an exclusively or predominantly adult clientele and including, but not limited to: adult bookstores, adult motion picture theaters, cabarets, massage parlors and other enterprises which regularly feature materials, acts or displays involving complete nudity or exposure of the "Specified Anatomical Areas" herein below defined and/or sexual excitement or enticement.
- 1200.08.01.03 Adult Book Store: An establishment having as a substantial or significant portion of its stock in trade, books, magazines, motion pictures, periodicals, and other materials which are distinguished or characterized by their emphasis on matter depicting, describing or relating to "Specified Anatomical Areas" (as defined below) or an establishment with a segment or section devoted to the sale or display of such material.
- 1200.08.01.04 Adult Motion Picture Theater: Any public place, whether open or enclosed, used for presenting material distinguished or characterized an emphasis on matter depicting, describing or relating to "Specified Sexual Activities" or "Specified Anatomical Areas" (as defined below) for observations by patrons therein.
- 1200.08.01.05 Cabaret: Any restaurant, bar, dance hall, nightclub or other such place of business or public place which features exotic dancers, go-go dancers, strippers, male or female impersonators or similar entertainers.
- 1200.08.01.06 Massage Parlors: Any premises, public place, place of business or membership club where there is conducted the business or activity of furnishing, providing or giving for a fee or any other form of consideration a massage, a bath, body painting or similar massage services or procedure; or "Massage Therapists licensed by the Tennessee Department of Health Board of Massage Licensing" to the exclusions listed under paragraph 1200.08.01.06 which are permitted and do not require any special exceptions permit for business operations. This definition shall not be construed to

- include a hospital, nursing home, medical clinic or the office of a duly licensed physical surgeon, physical therapist, chiropractor or osteopath. Nor shall this definition be construed to include a barber or cosmetologist, so long as any massage administered therein is limited to the head and neck. (Amended 2010-11)
- 1200.08.01.07 Massage: Shall mean the administering by any person by any method of exerting or applying pressure, friction, moisture, heat or cold to the human body, and/or the rubbing, stroking, kneading, pounding, tapping, or otherwise manipulating a part or whole of the human body or the muscles or joints thereof, by any physical or mechanical means. Massage shall also mean the giving, receiving, or administering of a bath to any person or the application of oil, lotion, body paint, or other such embrocation to any person.
- 1200.08.01.08 Minor: Any person less than 18 years of age.
- 1200.08.01.09 Public Place: Shall mean any place to which the public or a substantial group of persons has access and congregates, regardless of whether admission is charged thereto, and includes, but is not limited to: Businesses open to the public; highways; transportation facilities; schools; places of amusement; parks; playgrounds; hotels; theaters; auditoriums; restaurants; nightclubs; cocktail lounges; and burlesque houses.
- 1200.08.01.10 School: An academic learning center, whether public or private, from the level of nursery through twelfth grade.
- 1200.08.01.11 "Specified Sexual Activities": (Amended 10 2004)
- 1200.08.01.11.01 Human genitals in a state of actual or simulated sexual stimulation or arousal;
- 1200.08.01.11.02 Acts of actual or simulated human masturbation, sexual intercourse or sodomy;
- 1200.08.01.11.03 Actual or simulated fondling or other erotic touching of human genitals, pubic region, buttock, or female breast.
- 1200.08.01.12 "Specified Anatomical Areas" shall mean less than completely and opaquely covered:
 - (a) Human genitalia, pubic region;
 - (b) Buttock;
 - (c) Female breast below a point immediately above the top of the areola; and

(d) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

1200.08.02 Location Restrictions:

Adult-oriented establishments, as defined above, are absolutely and expressly prohibited from all parts of the Town of Signal Mountain except those portions zoned Highway Commercial District. Furthermore, the location and operation of adult-oriented establishments within the above specified zones will not be permitted unless a special permit is obtained from the Board of Zoning Appeals, subject to the following additional restrictions.

1200.08.03 Special Permit Restrictions for Adult-Oriented Establishments:

In no case shall an adult-oriented establishment be permitted to locate within five hundred (500) feet of any boundary of a low density residential district, moderate density residential district, high density residential district, residential townhouse district or office district, or within five hundred (500) feet of a residential use within any zoning district, nor shall any proposed adult-oriented establishment be permitted to locate within five hundred (500) feet from the nearest property line of a site which is used for the purpose of a recreational park (ornamental parks are not to be considered in the requirement), place of worship, school, day care center, or other adult-oriented establishment. Measurement shall be made from the nearest recorded property line of the adult-oriented establishment to the nearest property line or boundary of the above mentioned uses. (Amended 10 - 2004)

1200.08.04 Evaluation:

For the purpose of enforcing the regulations of this section, it shall be the responsibility of the Planning Commission or the Building Inspector to measure, evaluate and advise the Board of Zoning Appeals regarding compliance of a proposed adult-oriented establishment with the special restrictions set forth herein. It shall be the responsibility of the applicant to supply site plans, maps, surveys or other such special information as might reasonably be required and requested by the Planning Commission or the Building Inspector for use in making a thorough evaluation of the proposal.

1200.08.05 Revocation and Hearing:

Expansion, relocation, substantial misrepresentation, violation of any of the terms of this Ordinance or change in dominant sales items or services offered to the public or failure to operate the establishment in conformity with any terms and specifications set forth in the conditions attached to the special

permit shall constitute grounds for revocation of the special permit after notice and hearing. Notice of the hearing before the Board of Zoning Appeals for revocation of the permit shall be given in writing, setting forth the grounds of the complaint and the time and place of hearing. Such notice shall be mailed by certified mail to applicant's last known address at least five (5) days prior to the date set for hearing.

1200.08.06 Adult-Oriented Establishments Unlawful Acts:

It shall be unlawful for any person to own, manage or operate an adult-oriented establishment in any zone other than Highway Commercial District or to own, manage, or operate such an establishment without obtaining a special permit as hereinabove required.

1200.08.07 Enforcement:

The provisions set forth in Article XXI of these Regulations, Section 2100.01, 2100.02, 2100.03 are hereby adopted and become a part hereof as though specifically copied herein.

- 1200.09 (Deleted 10 2004)
- For funeral homes, mortuaries, and undertaking establishments. (Added 10 2004)
- 1200.11 For continuing care retirement communities. (Added 10 2004)
- Facilities such as boarding, grooming, training, and similar uses for small animals (defined as household pets), subject to the provision that any outdoor use:
 - (a) Shall be limited to the rear yard;
 - (b) Shall be not less than one hundred (100) feet from any residential, commercial, or office use or district;
 - (c) Shall be fenced by a sight-obscuring screen (either solid or veil block, or some form of fence that is at least 50% opaque and at least six (6) feet high). No chain link, slat or wire fences can be used to meet the requirements of this Section; and
 - (d) Shall not involve dog(s) causing frequent or long, continued noise which disturbs the comfort or repose of any person in a residence of any kind, hotel or hospital. For the purposes of this subsection, "frequent or long, continued noise" shall include, but shall not be limited to, barking at an average rate of ten (10) or more barks per minute over a period of five (5) minutes which can be heard from a distance of one hundred (100) feet or more, but shall not include the

barking of any dog(s) responding to an emergency or to a trespasser on the property where such facility is located. (Added 10 - 2004)

- For any home occupation that generates traffic volume to or parking problems at the premises than would normally be expected at a similar property where no home occupation is conducted at or adjacent to the location of such home occupation as determined by the Building Inspector To issue this permit, the Board of Zoning Appeals must first find that the type and amount of vehicular traffic generated by the home occupation will not be disruptive to the neighborhood or in any way create a nuisance or safety hazard to the neighborhood in which the proposed home occupation is to be located. The Board may also impose such additional conditions as deemed necessary to insure the public safety and welfare. (Added 10 2004)
- 1200.14 Residential Homes for the Handicapped and/or Aged Persons, Assisted Living Facilities and Medically Assisted Living Facilities, Nursing Homes and Hospitals Operated on a Commercial Basis.

Application to the Town Council shall be accompanied by a site plan, drawn to scale, showing the following information:

- A. Size and location, and use of all buildings and structures;
- B. Parking and loading facilities;
- C. Points of ingress and egress;
- D. Surrounding land uses; and
- E. A list showing:
 - (1) Number of residents;
 - (2) Number of employees, visitors and/or volunteers who may reasonably be expected at any one time;
 - (3) State licensure department (if applicable);
 - (4) Type of license and nature of operation; and
 - (5) A statement of whether the facility will be operated on a commercial basis.

The Town Council shall find that such uses are appropriate to the zone in which they are proposed to be located; that the proposed use will not conflict with the developed character of the area; that the Town Engineer has approved all plans for the points of ingress and egress, parking and loading facilities; and that the proposed use will not be in conflict with the adopted plans of the community.

Prior to operating any of the above uses, both the Special Permit and the State License (where applicable) must be obtained.

- Memorial Gardens and Columbaria may be allowed as an accessory use of churches within the Low Density Residential (LDR) District provided that any application for a Special Exceptions permit shall be accompanied by a site plan, drawn to scale, showing the following information:
 - 1. Size and location and use of all adjoining buildings and structures:
 - 2. Parking and loading facilities;
 - 3. Points of ingress and egress;
 - 4. Building and fire access easements for adjoining buildings and structures;
 - 5. A written agreement by the governing body of the church that use as a Memorial Garden and Columbarium will require compliance and removal of human remains under applicable Tennessee law before any other use can occur on any property dedicated for use as a Memorial Garden or Columbarium;
 - 6. Setbacks for a Memorial Garden or Columbarium from adjoining residential properties;
 - 7. Approval by the Building and Fire officials of the Town concerning the locations of any structures and access to buildings.

The Board of Zoning Appeals shall make a recommendation for approval to the Town Council concerning screening, height, and additional setbacks of any structures. (Added 05 - 2011)

1201. <u>Board's Findings</u>:

The Board of Zoning Appeals shall make its findings in writing on each of the conditions stipulated in Article XI and on such additional items presented as evidence which have influenced its decision. The decision of the Board of Zoning Appeals shall become effective immediately. such decisions, affirming, revising, or modifying the order, requirement, decision or determination of the administrator of the zoning regulations and such conditional permits and other special permits or special exceptions or variances to the provisions of the zoning regulations shall be effective for a period of one (1) year from the date of the decision of the Board of Zoning Appeals, unless another time certain is given in such decision.

1201.02 If the decision of the Board of Zoning Appeals has not been fully utilized and confirmed by the construction of the improvements contemplated by the applicant within the period of one (1) year, or other time certain stipulated by the Board of Zoning Appeals, then the applicant will be required to reapply

to the Board of Zoning Appeals and the application will be reheard upon the grounds stipulated by the applicant as of the time of the new application.

- The Board of Zoning Appeals shall not rehear any case upon the same grounds within a minimum period of one (1) year of its previous hearing date.
- The Board of Zoning Appeals shall adopt for its record, such policies as can be reasonably developed for its own guidance in dealing with the more common types of request for adjustment.

1202. Records:

The Board of Zoning Appeals shall keep a duplicate record of its proceedings, findings, and action in each case, giving specific reasons for its action, and for any deviation from policy it might have established in pant cases. The vote of each member on each question shall appear in the record. All records of the Board of Zoning Appeals shall be open to the public.

1203. <u>Stay</u>:

Upon applying for special exception, variance, interpretation, or review by the Board of Zoning Appeals, the applicant shall stay any cut or fill of property, construction, or alteration on the building for which action by the Board of Zoning Appeals is sought.

1204. <u>Appeal from a Decision of the Board of Zoning Appeals:</u>

The action of the Board of Zoning Appeals shall be final, provided an appeal from the action of the Board of Zoning Appeals may be taken to court of competent jurisdiction by any aggrieved, affected party.

1205. Administration:

The Town Manager or his designated assistant shall be the Secretary of the Board of Zoning Appeals. He shall conduct all official correspondence subject to the rules and direction of the Board of Zoning Appeals, and send out all notices and attend all meetings or cause the same to be done. The secretary shall attend all meetings, keep the minutes, compile the records and maintain the official files of the Board of Zoning Appeals or cause the same to be done.

ARTICLE XIII APPEALS FROM THE BOARD OF ZONING APPEALS

1301. Method of Appeal to Court:

Any person or persons, or any board, taxpayer, department, or bureau of the government aggrieved by any decision of the Board of Zoning Appeals may present to a court of competent jurisdiction a petition, duly verified, setting forth that a decision of the Board of Zoning Appeals is illegal, in whole or part, specifying the grounds of the illegality. Such petition shall be presented to the court within thirty (30) days after the filing of the decision of the Board of Zoning Appeals. Such petition shall not be made with respect to the decision of the Building Inspector or any administrative officer, without recourse to the Board of Zoning Appeals.

1302. Procedure in Court:

- Upon the presentation of such petition, the Court may allow a writ of certiorari directed to the Board of Zoning Appeals to review such decisions of the Board of Zoning Appeals. The allowance of the writ shall not stay proceedings upon the decision of the Board of Zoning Appeals. The Board of Zoning Appeals shall be required to turn over to the Court certified copies of all papers and any other pertinent information relating to the decision.
- If upon hearing, the Court deems that testimony is necessary for the proper disposition of the matter, it may take evidence or appoint a referee to take evidence which shall constitute a portion of the proceedings upon which the determination of the Court shall be made. The court may reverse or affirm, wholly or partly, or may modify the decision brought up for review.
- Court costs shall not be charged to the Board of Zoning Appeals unless the Court deems that the Board of Zoning Appeals acted with gross negligence, bad faith, or malice in making the decision from which the appeal is brought.

ARTICLE XIV PLATS

Each application for a building permit for a new building or to enlarge an existing building shall be accompanied by a plat drawn to scale, showing the actual dimensions of the lot to be built upon, the size, shape, and location of the building to be erected or enlarged and such other information as may be necessary to provide for the enforcement of these regulations. A record of such application and plat shall be kept in the office of the Town Building Inspector.

ARTICLE XV INTERPRETATION, PURPOSE, AND CONFLICT

1500.

In interpreting and applying the provisions of these regulations, they shall be held to be the minimum requirements for the promotion of the public health, safety, morals and general welfare of the community. It is not intended by these regulations to interfere with or abrogate or annul any easements, covenants, or other agreements between parties; provided, however, that where these regulations impose a greater restriction upon the use of the buildings or premises or upon the height of buildings, or requires larger open spaces than are imposed or required by other ordinances, rules, regulations, or by easements, covenants, the provisions of these regulations shall control. If, because of error or omission in the zoning map, any property in the Town of Signal Mountain, Tennessee, is not shown as being in a zoning district, the classification of such property shall be Low Density Residential District unless changed by amendments to the Zoning Ordinance; provided, however, that property annexed to the Town of Signal Mountain shall be temporarily reclassified from its former zoning classification as follows:

FORMER CLASSIFICATION		TEMPORARY CLASSIFICATION
A-1 Agricultural District	to	Residential Estate District
R-1 Single Family Residential District	to	Low Density Residential District
R-T-1 Residential Townhouse District		
or R-T/Z Residential Townhouse/Zero		
Lot Line	to	Residential Townhouse District
R-2 Urban Residential District	to	Low Density Residential District
R-2A Rural Residential District	to	Residential Estate District
R-3 Apartment-Townhouse District or R-3		
MD Moderate Density Apartment-		
Townhouse District	to	Moderate Density Residential District
R-5 Single-Wide Manufactured Home		
District	to	Low Density Residential District
O-1 Office District	to	Office District
C-1 Tourist Court & Motel Commercial		
District	to	Highway Commercial District
C-2 Local Business Commercial District	to	Community Commercial District or
		Specialty Commercial District
C-3 General Business Commercial District	to	Highway Commercial District
C-5 Neighborhood Commercial District	to	Community Commercial District or
		Specialty Commercial District
M-1 Industrial District	to	Highway Commercial District or
		Warehouse and Wholesale District
M-2 Wholesale and Light Industry or M-3		

Warehouse and Wholesale District or M-4 Outdoor Industrial Use District

to Warehouse and Wholesale District

- The temporary classifications shall be and remain in full force and effect during the interim period between the effective date of the annexation and the adoption of an official zoning plan for the area by the Town Council, as hereinafter provided, and the Building Inspector may issue building permits during said interim based on such temporary zoning.
- It shall be the duty of the Planning Commission, within ninety (90) days of the effective date of annexation, to recommend a zoning plan for the newly annexed areas to the Town Council. Following the receipt of the recommendation of such a zoning plan from the Planning Commission, the Town Council after giving notice as required in Article XVIII regarding changes and amendments to the zoning regulations, shall thereafter adopt a zoning plan as an amendment to the official zoning map for the newly annexed area.
- These regulations shall apply only to property annexed by the Town after October of 2004, it being the intent of the Town Council that these regulations shall have only prospective application.

ARTICLE XVI DUTIES OF BUILDING INSPECTOR, BOARD OF ZONING APPEALS AND COURTS ON MATTERS OF APPEAL

1601. <u>Intent</u>:

1601.01 It is the intent of these regulations that all questions of interpretations and

enforcement shall be made by the Building Inspector. Recourse from that decision shall be to the Board of Zoning Appeals. Recourse from the decision of the Board of Zoning Appeals shall be to a court of competent jurisdiction.

(Amended 12-16-91)

ARTICLE XVII FEE, CHARGES, AND EXPENSES

1701. Schedule of Fees, Charges and Expenses:

The Town Council shall establish a schedule of fees, charges, and expenses and a collection procedure for building permits, certificates of zoning compliance, appeals, amendments, and other matters pertaining to these regulations. This schedule of fees shall be posted in the office of the Building Inspector and may be altered or amended only by the Town Council.

1702. No Action Until Fees Paid:

No permit, certificate, special exception, or variance shall be issued or granted unless and until such costs, charges, fees or expenses have been paid in full, nor shall any action be taken on proposed amendments or on proceedings before the Board of Zoning Appeals unless and until applicable charges and fees have been paid in full.

ARTICLE XVIII CHANGES AND AMENDMENTS

1801. <u>Amendments</u>:

The standards, restriction, and boundaries set forth in these regulations (including maps) may from time to time be amended, supplemented, changed or repealed.

1802. <u>Required Method of Procedure</u>:

- An amendment, supplement, change, or repeal may be initiated by the Town Council, the Planning Commission, any department or agency of governments or any other individual, corporation, or agency.
- No such amendment shall become effective unless it be first submitted to and approved by the Planning Commission, or if disapproved, shall receive the favorable vote of a majority of the entire membership of the Town Council within thirty (30) days after such submission.
- No such amendment shall become effective until the Town Council has given at least fifteen (15) days prior notice of the time and place for a public hearing which shall be held in regard to the proposed changes or amendments.

This notice and the proposed amendment shall be published at least once in a newspaper of general circulation in the municipality (4-13-92). Large and conspicuous signs shall also be posted on properties for which rezoning is sought and the date, time, and place of the hearing shall appear on the signs. The petitioner shall pay the costs of advertisement of the public hearing.

- 1802.04 A petition for rezoning shall be set for public hearing within three (3) months of the date when the Town Council receives the Planning Commission's recommendation; otherwise said petition shall not be heard.
- Time of Second Petition: A petition once heard and denied shall not be accepted or heard again for the same area or any part or combination including the same area, and the same or similar change of zoning, use or other change, for a period of twelve (12) months following denial of this petition by the Signal Mountain Town Council. (3-9-87)

1803. <u>Procedural Rules for Special Circumstances</u>:

Whenever the owners of fifty (50) percent, or more, of the area of all the property within a radius of two hundred (200) feet of any area proposed to be rezoned shall present to the Town Council a petition duly signed and acknowledged by them, requesting the passage of any such amendment of the ordinance, then the chief legislative body shall act within ninety (90) days after the filing thereof.

When a proposed amendment affects the zoning classification of property, and in case a protest against such change is signed by the owners of twenty (20) percent or more, either of the area of the lots included in such proposed change, or of those immediately adjacent in the rear thereof extending 175 feet therefrom, or of those directly opposite thereto extending 175 feet from the street frontage of such opposite lots, then such amendments shall not become effective except by the favorable vote of a majority of the entire membership of the Town Council.

1804. <u>Incorporation of Amendment in the Language of this Resolution:</u>

The phrase used in this Ordinance, "at the time of passage of these regulations" shall in its application to land, and buildings and properties, and uses affected by an amendment to these regulations be read to mean "at the time of passage of this amendment.

ARTICLE XIX PROVISIONS OF REGULATIONS DECLARED TO BE MINIMUM REQUIREMENTS

1901. <u>Minimum Requirements</u>

In their interpretation and application, the provisions of these regulations shall be held to the minimum requirements, adopted for the promotion of the public health, safety, morals, or general welfare. Wherever the requirements of these regulations are at variance with the requirements of any other lawfully adopted rules, regulations, ordinances, resolutions, deed restrictions, or covenants, the most restrictive or that imposing the higher standard shall govern.

ARTICLE XX COMPLAINTS REGARDING VIOLATIONS

2001. <u>Complaints to be Filed with Building Inspector:</u>

Whenever a violation of these regulations occurs or is alleged to have occurred, any person may file a written complaint. Such complaint stating fully the causes and basis thereof shall be filed with the Building Inspector. He shall record properly such complaint, immediately investigate, and take action thereon as provided by these regulations.

ARTICLE XXI PENALTIES FOR VIOLATION

2100. <u>Penalties</u>:

2100.01

Violation of the provisions of these regulations or failure to comply with any of the requirements set forth herein including violations of conditions and safeguards established in connection with grants of variances or special exceptions shall constitute a misdemeanor. Any person who violates these regulations or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than fifty dollars (\$50.00) and in addition shall pay all costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense.

2100.02

The owner or tenant of any building, structure, premises, or part thereof, and any architect, builder, contractor, agent, or other person, who commits, participates in, assists in, or maintains such violation may each be found guilty of a separate offense and suffer the penalties herein provided.

2100.03

Nothing herein contained shall prevent the government from taking such other lawful action as is necessary to prevent or remedy any violation of this chapter or any regulation or provision enacted or adopted by local government under the authority granted by this chapter, such local governing body, the attorney general, the district attorney for the judicial circuit in which such violation occurs or is threatened, the Building Inspector, any adjacent or neighboring property owner, or other individual agency, or corporation that would be specifically damaged by such violation, in addition to other remedies provided by law, may institute injunction, mandamus, abatement or any other appropriate action, actions, proceeding or proceedings to prevent, enjoin or abate or remove such unlawful erection, construction, reconstruction, alteration, maintenance or use.

ARTICLE XXII SEVERABILITY CLAUSE

2200. <u>Severability Clause</u>:

Should any section or provision of these regulations be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the regulations as a whole, or any part thereof other than the part so declared to be unconstitutional or invalid.

ARTICLE XXIII REPEAL OF CONFLICTING ORDINANCES: EFFECTIVE DATE:

2300. Repeal of Conflicting Ordinances: Effective Date:

All local statutes or parts thereof in conflict with these amended and restated zoning regulations, or inconsistent with the provisions set forth herein, are hereby repealed to the extent necessary to give these regulations full force and effect. These amended and restated regulations shall become effective on November 8, 2004.

ARTICLE XXIV WIRELESS TELECOMMUNICATION TOWERS AND ANTENNAS

(Added July 30, 1998, by Ordinance No. 98-21) (Amended August 17, 1998, by Ordinance No. 98-25) (Amended January 20, 1999, by Ordinance No. 99-4)

- 1. That an amendment to the Signal Mountain Zoning Ordinance shall be entitled "Article XXIV-Wireless Telecommunication Towers and Antennas".
- 2. <u>Purpose</u>. The purpose of this Ordinance is to establish general guidelines for the siting of wireless communication towers and antennas. The goals of this Ordinance are to: (1) protect residential areas and land uses from potential adverse impacts of towers and antennas; (2) encourage the location of towers in non-residential areas; (3) minimize the total number of towers throughout the community; (4) strongly encourage the joint use of new and existing tower sites as a primary option rather than construction of additional single-use towers; (5) encourage users of towers and antennas to locate them, to the extent possible, in areas where the adverse impact on the community is minimal; (6) encourage users of towers and antennas to configure them in a way that minimizes the adverse visual impact of the towers and antennas through careful design, siting, landscape screening, and innovative camouflaging techniques; (7) permit the providers of telecommunications services to provide such services to the community; (8) consider the effect upon the public health and safety of communication towers; and (9) avoid potential damage to adjacent properties from tower failure through engineering and careful siting of tower structures. In furtherance of these goals, the Town Council shall give due consideration to the Town of Signal Mountain's land use plan, zoning map, existing land uses, and environmentally sensitive areas in approving or disapproving sites for the location of towers and antennas.
- 3. <u>Definitions</u>. As used in this Ordinance, the following terms shall have the meanings as set forth below:
 - (a) Alternative Tower Structures means man-made trees, clock towers, bell steeples, light poles and similar alternative-design mountain structures that camouflage or conceal the presence of antennas or towers.
 - (b) Antenna means any exterior transmitting or receiving device mounted on a tower, building or structure and used in communications that radiate or capture electromagnetic wages, digital signals, analog signals, radio frequencies (excluding radar signals), wireless telecommunications signals or other communication signals.

- (c) Backhaul Network means the lines that connect a provider's towers/cell sites to one or more cellular telephone switching offices, and/or long distance providers, or the public switched telephone network.
- (d) Carrier Application means the total number of antennas needed for a single carrier to place that equipment on a communication tower.
- (e) FFA means the Federal Aviation Administration.
- (f) FCC means the Federal Communications Commission.
- (g) Height means, when referring to a tower or other structures, the distance measured from the finished grade of the parcel (regardless of whether or not such tower or other structure is sited on or within any building or other structure, such as a water tower or a church steeple) to the highest point on the tower or other structure, including the base pad and any antenna.
- (h) Lattice Tower means a self-supporting support structure, erected on the ground, which consists of metal crossed strips or bars to support antennas and related equipment.
- (i) Monopole means a communication facility which consists of monopolar structure, erected on the ground to support communication antennas and connecting appurtenances.
- (j) Tower means any structure that is designed and constructed for the purpose of supporting one or more antennas for telephone, radio and similar communication purposes, including, without limitation, self-supporting lattice towers, guyed towers, or monopole towers. The term includes, without limitation, radio and television transmission towers, microwave towers, common-carrier towers, cellular telephone towers, alternative tower structures, and the like. The term includes the structure and any support thereto.

4. Applicability.

- (a) New Towers and Antennas. All new towers or antennas in the Town of Signal Mountain shall be subject to these regulations, except as provided in Sections 4(b) through (d), inclusive.
- (b) Amateur Radio Station Operator/Receive Only Antennas. This Ordinance shall not govern any tower, or the installation of any antenna, that is under thirty-five feet in height and is owned and operated by a radio station operator or is used exclusively for receive only antennas. All other applicable regulations to towers and antennas thirty-five feet or more in height and found within this Ordinance shall continue to apply.
- (c) Pre-Existing Towers or Antennas. Pre-existing towers and pre-existing antennas shall not be required to meet the requirements of this Ordinance, other than the requirements of Sections 5(f) and 5(g).

(d) AM Array. For purposes of implementing this Ordinance, an AM Array, consisting of one or more tower units and supporting ground system which functions as an AM broadcasting antenna, shall be considered one tower. Measurements for setbacks and separation distances shall be measured from the outer perimeter of the towers included in the AM Array. Additional tower units may be added within the perimeter of the AM Array by right.

5. <u>General Requirements.</u>

- (a) Principal or Accessory Use. Antennas and towers may be considered either principal or accessory uses. A different existing use of an existing structure on the same lot shall not preclude the installation of an antenna or tower on such lot.
- (b) Lot Size. For purposes of determining whether the installation of a tower or antenna complies with district development regulations, including but not limited to setback requirements, lot-coverage requirements, and other such requirements, the dimensions of the entire lot shall control, even though the antennas or towers may be located on leased parcels within such lot.
- (c) Inventory of Existing Sites. Each applicant for an antenna and/or tower shall provide to the Town an inventory of its existing towers, antennas, or sites approved for towers or antennas, that are within the jurisdiction of the Town of Signal Mountain, or in a nearby jurisdiction and could be used to provide personal wireless services to the citizens of the Town of Signal Mountain, including specific information about the location, height, and design of each tower. The Town may share such information with other applicants applying for administrative approvals or special use permits under this Ordinance or other organizations seeking to locate antennas within the jurisdiction of the Town of Signal Mountain provided, however, that the Town is not, by sharing such information, in any way representing or warranting that such sites are available or suitable for tower construction.
- (d) Anesthetics. Towers and antennas shall meet the following requirements:
 - (1) Towers shall either maintain a galvanized steel finish or, subject to any applicable standards of the FAA, be painted light gray so as to reduce visual obtrusiveness.
 - (2) At a tower site, the design of the buildings and related structures shall be subject to all applicable Town of Signal Mountain Ordinances and the Design Review Commission's requirements and shall, to the extent possible, use materials, colors, textures, screening and landscaping that will blend them into the natural setting and surrounding buildings.

- (3) If an antenna is installed on a structure other than a tower, the antenna and supporting electrical and mechanical equipment must be a neutral color that is identical to, or closely compatible with, the color of the supporting structure so as to make the antennas and related equipment as visually unobtrusive as possible.
- (e) Lighting. Towers shall not be artificially lighted, unless required by the FAA or other applicable authority. If lighting is required, the lighting alternatives and design chosen shall be subject to all applicable Town of Signal Mountain Ordinances and the Design Review Commission's requirements and must cause the least possible disturbance to the surrounding views.
- (f) State or Federal Requirements. All towers must meet or exceed current standards and regulations of the FAA, the FCC, ANSI (American National Standard Institute), IEEE (Institute of Electrical and Electronic Engineers), and any other agency of the State or Federal government with the authority to regulate towers and antennas. If such standards and regulations are changed, then the owners of the towers and antennas governed by this Ordinance shall bring such towers and antennas into compliance with such revised standards and regulations within six (6) months of the effective date of such standards and regulations, unless a different compliance schedule is mandated by the controlling State or Federal agency. Failure to bring towers and antennas into compliance with such revised standards and regulations shall constitute grounds for the removal of the tower or antenna at the owner's expense.
- (g) Building Codes: Safety Standards. To ensure the structural integrity of towers, the owner of a tower shall ensure that it is maintained in compliance with standards contained in applicable State or local building codes and the applicable standards for towers that are published by the Electronic Industries Association, as amended from time to time. If, upon inspection, the Town of Signal Mountain concludes that a tower fails to comply with such codes and standards and constitutes a danger to persons or property, then upon notice being provided to the owner of the tower, the owner shall have thirty (30) days to bring such tower into compliance with such standards. Failure to bring such tower into compliance within said thirty (30) days shall constitute grounds for the removal of the tower or antenna at the owner's expense.
- (h) Measurement. For purposes of measurement, tower setbacks and separation distances shall be calculated and applied to facilities located in the Town of Signal Mountain irrespective of municipal and county jurisdictional boundaries.
- (i) Franchises. Owners and/or operators of towers or antennas shall certify that all franchises required by law for the construction and/or

- operation of a wireless communication system in the Town of Signal Mountain have been obtained and shall file a copy of all required franchises with the Town.
- (j) Public Notice and Public Hearing. For purposes of this Ordinance, any special use permit request or variance request shall require public notice to all abutting property owners and all property owners of properties that are located within the greater of one thousand feet or the corresponding separation distance listed in Section 6(b)5(i), Table 1, in addition to any notice otherwise required. In addition, a public notice and public hearing process that is substantially similar to that required by the Town of Signal Mountain's Ordinance regarding a rezoning request shall also be required regarding any special use permit request or variance request under this Article XXIV.
- (k) Signs. No signs shall be allowed on an antenna or tower.
- (l) Buildings and Support Equipment. Buildings and support equipment associated with antennas or towers shall comply with the requirements of Section 9.
- (m) Multiple Antenna/Tower Plan. The Town of Signal Mountain encourages the users of towers and antennas to submit a single application for approval of multiple towers and/or antenna sites.

6. <u>Special Use Permits</u>.

- (a) General. The following provisions shall govern the issuance of special use permits for towers or antennas by the Town Council.
 - (1) A special use permit shall be required for the construction of a tower or the placement of an antenna in all zoning district classifications. Applications for special use permits under this Article XXIV shall also be subject to all other applicable Town of Signal Mountain Ordinances concerning procedures and requirements as to special use permits.
 - (2) In granting a special use permit, the Town Council shall impose conditions to the extent the Town Council includes such conditions as necessary to minimize adverse effects of the proposed tower on adjoining properties.
 - (3) Any information of an engineering nature that the applicant submits, whether civil, mechanical, or electrical, shall be certified by a licensed professional engineer under the guidelines of the State of Tennessee for such certifications.
 - (4) An applicant for a special use permit shall submit the information described in this Section, a \$1,000.00 non-refundable application fee and shall reimburse the Town of Signal Mountain with respect to the Town's consultant's fees and expenses described in Section 6(b)(2)(ix).

- (5) The Town of Signal Mountain shall decide whether to approve or disapprove a special use permit application or variance request made under this Article XXIV within sixty days after the Town Council receives the last of the items that the applicant is required to submit under this Article XXIV. The Town of Signal Mountain shall provide written notice to the applicant of such decision to approve or disapprove such special use permit application or variance request.
- (b) Towers and Antennas.
 - (1) Information required. In addition to any information required for applications for special use permits, applicants for a special use permit for a tower or antenna shall submit the following information for approval or disapproval by the Town Council:
 - (i) Name and address of each company or individual wishing to build or lease the proposed tower or antenna or any portion thereof, including all intended users of the tower or antenna.
 - (ii) A scaled site plan clearly indicating the location, type and height of the proposed tower, accessory buildings, on-site land uses and zoning, adjacent land uses and zoning (including when adjacent to other municipalities), zoning classification of all properties within the applicable separation distances set forth in Section 6(b)(5), adjacent roadways, proposed means of access, setbacks from property lines, elevation drawings of the proposed tower and any other structures, topography, parking, and other information deemed by the Town Council to be necessary to assess compliance with this Ordinance.
 - (iii) Address and legal description of the parent tract and leased parcel (if applicable); proof of ownership of site or authorization to use it.
 - (iv) The separation distance between the proposed tower or antenna and the lot lines of the nearest residentially-zoned properties.
 - (v) The separation distance from other towers described in the inventory of existing sites submitted pursuant to Section 5(c) shall be shown by an updated site plan or map. The applicant shall also identify the type of construction of the existing tower(s), if known.
 - (vi) A landscape plan showing specific landscape materials.

- (vii) Method of fencing, and finished color and, if applicable, the method of camouflage and illumination.
- (viii) A description of the facility and its purposed use.
- (ix) A description of compliance with Sections 5(c), (d), (e), (f), (g), (j), (l) and (m), 6(b)(4), 6(b)(5), 6(b)(6), and all applicable Federal, State and local laws.
- (x) A notarized statement by the applicant's registered engineer as to whether construction of the tower will accommodate co-location of additional antennas for future users, indicating how many additional users can be accommodated by the proposed tower.
- (xi) Documentation stating the applicant's agreement to allow co-location on the proposed tower at reasonable rates.
- (xii) All licenses, leases and franchises related to such proposed tower or antenna prior to execution thereof by the parties thereto.
- (xiii) A description of the suitability of the use of existing towers, other structures or alternative technology not requiring the use of towers or structures to provide the services to be provided through the use of the proposed new tower. If existing towers with capacity for collation were not chosen, submit a statement indicating why co-location was not practical, including correspondence.
 - (xiv) A description of the feasible location(s) of future towers or antennas within the Town of Signal Mountain based upon existing physical, engineering, technological or geographical limitations in the event the proposed tower is erected.
- (xv) The applicant or the landowner shall provide proof of the establishment of a financially-secure and legally-enforceable method of removing a communications tower when it ceases to be used for a period of twelve months This Financial Assurance can be provided through a sinking fund, a lien upon land which has a greater unencumbered appraised value than the cost of removal of the communications tower, a bond, a letter of credit or any alternative financial arrangement which is approved by the Town Council as to financial adequacy and the Town Attorney as to legal enforceability. Such Financial Assurance must be maintained by the owner of the

- tower or antenna or the owner of the proposed site therefore at its expense (if the proposed tower or antenna is approved and built) until the tower or antenna has been removed at such owner's expense. If such Financial Assurance has not been renewed at such owner's expense at least thirty days prior to its expiration, the Town may cash such letter of credit or proceed against any other Financial Assurance.
- (xvi) The applicant shall furnish the names and addresses of all property owners within one thousand feet of the site as measured from the property lines of the site upon which the tower is to be constructed to the nearest property line of any property within said distance.
- (xvii) 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 tower and/or antenna 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.
- (xviii) Liability Insurance. Applicants shall provide the Town with proof of liability insurance in the amount of ten million dollars (\$10,000,000.00), and if the tower is on Town property, additional insureds shall be the Town of Signal Mountain, Tennessee, the Signal Mountain Planning Commission, the Council of the Town of Signal Mountain, Tennessee, and all employees of the Town of Signal Mountain, Tennessee.
- (2) Factors Considered in Granting Special Use Permits for Towers and Antennas. In addition to any standards for consideration of special use permit applications contained in this Article XXIV or any other applicable Town Ordinances, the Town Council shall consider the following factors in determining whether to issue a special use permit, although the Town Council may waive or reduce the burden on the

applicant of one or more of these criteria if the Town Council concludes that the goals of this Ordinance are better served thereby:

- (i) Height of the proposed tower;
- (ii) Proximity of the tower to residential structures and residential district boundaries;
- (iii) Nature of uses on adjacent and nearby properties;
- (iv) Surrounding topography;
- (v) Surrounding tree coverage and foliage;
- (vi) Design of the tower, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness;
- (vii) Proposed ingress and egress;
- (viii) Availability of suitable existing towers, other structures, or alternative technologies not requiring the use of towers or structures, as discussed in Section 8(b)(3) of this Ordinance; and,
- (ix) A written report from a consultant retained by the Town of Signal Mountain which contains an evaluation of such special use permit application (or variance request, as the case may be) and the materials that the applicant submitted therewith concerning whether the proposed tower or antenna may interfere in any way with any Town existing or proposed wireless communications facilities (which interference shall be prohibited) and whether the proposed tower or antenna, the related application and such materials meet the requirements of this Article XXIV and all other applicable Town of Signal Mountain Ordinances. The applicant shall reimburse the Town of Signal Mountain with respect to such consultant's fees and expenses promptly upon receipt of each invoice therefore.
- (3) Availability of Suitable Existing Towers, Other Structures, or Alternative Technology. No new tower shall be permitted unless the applicant demonstrates to the reasonable satisfaction of the Town Council that no existing tower, structure or alternative technology that does not require the use of towers or structures located in the Town of Signal Mountain or in nearby jurisdictions can accommodate the applicant's proposed antenna. An applicant shall submit information to the Town Council related to the availability of suitable existing towers, other structures or alternative technology located in the Town of Signal Mountain and in

nearby jurisdictions. Evidence submitted to demonstrate that no existing tower, structure or alternative technology can accommodate the applicant's proposed antenna may consist of any of the following:

- (i) No existing towers or structures (including, without limitation, water towers, church steeples, street lights or power poles) are located within the geographic area which meet applicant's engineering requirements.
- (ii) Existing towers or structures are not of sufficient height to meet applicant's engineering requirements.
- (iii) Existing towers or structures do not have sufficient structural strength to support applicant's proposed antenna and related equipment.
- (iv) The applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing towers or structures, or the antenna on the existing towers or structures would cause interference with the applicant's proposed antenna.
- (v) The fees, costs, or contractual provisions required by the owner in order to share an existing tower or structure or to adapt an existing tower or structure for sharing are unreasonable.
- (vi) The applicant demonstrates that there are other material limiting factors that render existing towers and structures unsuitable.
- (vii) The applicant demonstrates that an alternative technology that does not require the use of towers or structures, such as a cable microcell network using multiple low-powered transmitters/receivers attached to a wireline system is unsuitable. Costs of alternative technology that exceed new tower or antenna development shall not be presumed to render the technology unsuitable.
- (viii) The applicant must provide documentary evidence reasonably satisfactory to the Town Council that the applicant has used his (its) best efforts to site the proposed personal wireless service facilities on existing towers, structures or alternative technology located in the Town of Signal Mountain or any nearby jurisdiction in which an existing tower, structure or alternative technology is located that could be used to provide personal wireless service to the citizens of the Town of Signal Mountain.
- (ix) Documentary evidence that the proposed tower or antenna and the proposed site meet Federal

- Communications Commission statutes and regulations.
- (x) Documentary evidence that the proposed tower or antenna and the proposed site comply with the National Environmental Policy Act and all applicable Federal, State and local laws and regulations.
- (xi) A Phase One Environmental Assessment shall be required if the proposed tower or antenna site is in any of the following areas:
 - (a) An officially-designated wilderness area;
 - (b) An officially-designated wildlife preserve;
 - (c) A 100-year flood plain (as determined by the Federal Emergency Management Agency's flood insurance maps);
 - (d) A location that may affect threatened or endangered species under the Federal Endangered Species Act;
 - (e) Historic districts or sites listed or eligible for listing in the National Register of Historic Places;
 - (f) Native American religious sites;
 - (g) A location that could cause significant change in surface features, e.g. filling of wetlands, deforestation or water diversion; or,
 - (h) A location that would involve use of high intensity white lights in any residential district.
- (4) Setbacks. The following setback requirements shall apply to all towers and antennas for which a special use permit is required, provided, however, that the Town Council may reduce the standard setback requirements if the goals of this Ordinance would be better served thereby:
 - (i) Towers, antennas and guys must be set back a distance equal to at least one hundred percent (100%) of the height of the tower plus ten feet from any adjoining lot line and any adjoining road right-of-way.
 - (ii) Towers, antennas, guys and accessory buildings must satisfy the minimum zoning district setback requirements.
- (5) Separation. The following separation requirements shall apply to all towers and antennas for which a special use permit is required provided, however, that the Town Council

may reduce the standard separation requirements if the goals of this Ordinance would be better served thereby.

- (i) Separation from off-site uses/designated areas.
 - (a) Tower or antenna separation shall be measured from the base of the tower or antenna to (1) the lot line of the off-site uses and/or designated areas as specified in Table 1, except as otherwise provided in Table 1; and/or (2) the nearest portion of any building (other than such tower's or antenna's accessory equipment storage building) or other structure on the proposed tower or antenna site.
 - (b) Separation requirements for towers and antennas shall comply with the minimum standards established in Table 1.

Table 1:

Use	Separation Distance
All residentially-zoned properties	200 feet or 200% of the height of the tower or antenna, whichever is greater
Non-residentially-zoned properties	100 feet or 100% of the height of the proposed tower or antenna plus 10 feet, whichever is greater

(ii) Separation distances between towers.

Separation distances between towers shall be applicable for and measured between the proposed tower and pre-existing towers. The separation distances shall be measured by drawing or following a straight line between the base of the existing tower and the proposed base, pursuant to a site plan, of the proposed tower. The separation distances (listed in linear feet) shall be as shown on Table 2.

Table 2:

Existing	Towers-Types
LAISHIE	I O W CIS I Y D CS

	Lattice	Guyed	Monopole 75 ft. in Hgt. or Greater	Monopole Less Than 75 ft. in Height
Lattice	5000	5000	1500	750
Guyed	5000	5000	1500	750
Monopole 75 ft. in Hgt. or Greater	1500	1500	1500	750
Monopole Less Than 75 ft. in Hgt.	750	750	750	750

- (6) Maximum Height. Towers designed and built to accommodate (i) three personal system carrier applications ("PSC Applications") and three additional single antenna applications ("SA Applications") may not exceed 120 feet in height; (ii) four PSC Applications and four SA Applications may not exceed 130 feet in height; (III) five PSC Applications and five SA Applications may not exceed 140 feet in height; and, (iv) six PSC Applications and six SA Applications may not exceed 150 feet in height. Towers or antennas designed and built to accommodate fewer than three PSC Applications and three SA Applications shall not exceed 100 feet in height. Subject to the provisions of Section 6(b)(2), towers and antennas shall in no event exceed 150 feet in height.
- (7) Security fencing. Towers shall be enclosed by security fencing not less than six feet in height and shall also be equipped with an appropriate anti-climbing device, provided, however, that the Town Council may waive such requirements, as it deems appropriate.
- (8) Landscaping. The following requirements shall govern the landscaping surrounding towers and antennas for which a special use permit is required, provided, however, that the

Town Council may waive such requirements if the goals of this Ordinance would be better served thereby.

- (a) Tower or antenna sites on lots or parcels located in or abutting any residential property shall be landscaped with a 10-foot deep landscape yard with evergreen trees spaced a maximum of 10 feet on-center or two staggered rows of shrubs placed a maximum of eight feet apart. All plantings shall meet the installation and planting size requirements as specified below:
 - (i) Intent. All landscaping materials shall be installed in a professional manner, and according to accepted planting procedures specified in the current edition of American Studies for Nursery Standard.
 - (ii) Screening Trees. Screening trees are used to meet the tree planting requirements of this Ordinance and shall be installed at a minimum height of eight feet and have a minimum expected mature spread of eight feet. Recommended species are American Holly, Forster Holly, Southern Magnolia, Eastern Red Cedar, Atlas Cedar, Deodar Cedar and Virginia Pine.
 - (iii) Screening Scrubs. All screening shrubs shall be installed at a minimum size of three gallons and have an expected maturity height of at least eight feet and mature spread of at lease five feet. Recommended species include: Fragrant Olive, English Holly, Burford Holly, Nellie R. Stevens Holly, Wax Myrtle, Cherry Laurel, English Laurel, and Leatherleaf Viburum.
 - (iv) Prohibited Plants. The following plants are prohibited from being used to meet these requirements due to problems with hardiness, maintenance or nuisance: Kudzu Vine, Purple Loosetrife, Japanese Honeysuckle, Shrub Honeysuckle, Autumn Olive, Common Privet, Tree of Heaven, Lespedeza, Garlic Mustard, Paulownia, Multiflora Rose, Siberian Elm, Silver Poplar, Mimosa, Mulberry and Silver Maple.

- (v) Maintenance. The property owner (or lessee if so provided in a written lease) shall be responsible for the maintenance of all provided landscaping. All landscaped areas must present a healthy, neat and orderly appearance and shall be kept free from refuse and weeds. Any dead or diseased plant material shall be replaced by the property owner (or lessee if provided in a written lease) with new plantings that meet the requirements of these regulations.
- (b) A break in the landscape not to exceed sixteen feet in width, shall be allowed for access for maintenance personnel and vehicles.
- (c) New or existing vegetation, earth berms, existing topographic features, walls, screening fences, buildings and other features other than prescribed above may be used to meet the requirements of these regulations if the Design Review Commission finds that they achieve reasonably equivalent screening as Subsection A herein.
- (d) In commercial and industrial districts, a sight-obscuring fence at least eight feet in height and a minimum of seventy-five percent opaque may be substituted for screening trees or screening shrubs as specified in Subsection A herein by special exception from the Town Council when the applicant can demonstrate that it is impractical to provide living screening material.
- (e) No screening shall be required if the base of the communication tower site is not visible from adjoining property or is not otherwise visible from a dedicated public right-of-way.
- (f)) Site landscaping is not required for antennas which are being collocated on existing towers, or which are being placed on other buildings or structures where the antenna is allowed as an accessory use.
- (g) No screening shall be required when this screening is explicitly prohibited by Federal Communications Commission regulations or is otherwise restricted by site limitations. The Town Council shall review and approve any deviations from the standards specified herein.

- (h) In locations where the visual impact of the tower would be minimal, the landscaping requirement may be reduced or waived.
- (i) 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.
- (j) All landscaping plans shall be reviewed by the Town's Design Review Commission. The DRC review should proceed promptly without waiting for Council approval or disapproval of the special use permit application.
- (9) Noise. No equipment shall be operated in connection with a tower or antenna 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.
- 7. <u>Co-Location Requirements</u>. New towers of a height of more than one hundred feet must be designed and built to accommodate three or more personal communication system carrier applications and must be made available upon reasonable terms for co-location to at least three additional single antenna applications such as paging, 911, two-way and emergency management communications. Additionally, the site must be sufficiently large to accommodate at least three telecommunication equipment shelters, cabinets or additions to existing structures. New towers shall be made available upon reasonable terms for co-location.

8. Building or Other Equipment Storage.

- (a) Antennas Mounted on Structures or Rooftops. The equipment cabinet or structure used in association with antennas shall comply with the following:
 - (1) The cabinet or structure shall not contain more than 100 square feet of gross floor area or be more than 12 feet in height. In addition, for buildings and structures which are less than sixty-five feet in height, the related unmanned equipment structure, if over 100 square feet of gross floor area or 12 feet in height, shall be located on the ground and shall not be located on the roof of the structure.

- (2) If the equipment structure is located on the roof of a building, the area of the equipment structure and other equipment and structures shall not occupy more than 10 percent of the roof area.
- (3) Equipment storage buildings or cabinets shall comply with all applicable building codes.
- (b) Antennas Mounted on Utility Poles or Light Poles. The equipment cabinet structure used in association with antennas shall be located in accordance with the following:
 - (1) In residential districts, the equipment cabinet or structure may be located:
 - (i) In a front or side yard provided the cabinet or structure is no greater than 12 feet in height or 100 square feet of gross floor area and the cabinet/structure is located a minimum of 40 feet from all lot lines. The cabinet/structure shall be screened by an evergreen hedge with an ultimate height of at least 42-48 inches and a planted height of at least 36 inches.
 - (ii) In a rear yard, provided the cabinet or structure is no greater than 12 feet in height or 100 square feet in gross floor area. The cabinet/structure shall be screened by an evergreen hedge with an ultimate height of eight feet and a planted height of at least 35 inches.
 - (2) In commercial districts the equipment cabinet or structure shall be no greater than 20 feet in height or 200 square feet in gross floor area. The structure or cabinet shall be screened by an evergreen hedge with an ultimate height of eight feet and a planted height of at least 36 inches. In all other instances, structures or cabinets shall be screened from view of all residential properties which abut or are directly across the street from the structure or cabinet by a solid fence six feet in height or an evergreen hedge with ultimate height of 12 feet and a planted height of at least 36 inches.
- (c) Antennas Located on Towers. The related unmanned equipment structure shall not contain more than 100 square feet of gross floor area or be more than 12 feet in height, and shall be located no closer than 40 feet from all lot lines.

9. Other Requirements.

- (a) Design Standards: The proposed site plan and tower design plans must meet or exceed all applicable standards, including without limitation those of the Federal Communications Commission (FCC), American National Standards Institute (ANSI), and Institute of Electrical and Electronics Engineers (IEEE), standards for power density levels and structural integrity, American Concrete Institute (ACI), American Standards Testing and Materials Institute (ASTM), the National Electrical Code, and the American Steel Institute.
- (b) Construction Plans: Construction plans or drawings prepared by a registered engineer certifying that the tower has sufficient structural integrity and equipment space to accommodate multiple users shall be required at the time of applying for a building permit.
- (c) Landscape Plans: Landscape plans that comply with the landscaping requirements of this Ordinance shall be required at the time of applying for a building permit.
- (d) Building Permit. If the Town Council approves a special use permit application or variance request under this Article XXIV, then the applicant must obtain a building permit for the proposed personal wireless facilities from the Town of Signal Mountain and comply with all applicable Federal, State and local laws, regulations and ordinances with respect to such personal wireless facilities.
- (e) Council Approval Needed for Tower on Town Property. No tower or antenna shall be placed on Town property, including Town property leased to or from others, without approval of the Council of the Town of Signal Mountain, Tennessee.
- Liability Insurance. The owner(s) of a tower or antenna shall (f) maintain, with financially sound and reputable insurers, insurance satisfactory to the Town Council with respect to such tower or antenna against such casualties and contingencies of such types and on such terms as is customary in the case of entities of established reputations as to similar towers or antennas in the amount of at least ten million dollars (\$10,000,000.00) as to any tower and at least two million dollars (\$2,000,000.00) as to any antenna located on an existing tower where the tower owner has met and continues to meet the requirements of this Subsection 9(f) to the satisfaction of the Town, provided, however, that the Town Council may, in its sole discretion, elect to permit a tower or antenna owner to self-insure with respect to such risks, so long as such tower owner either (i) has a Standard & Poor's or Moody's long-term debt rating of A or better, in which event, such owner shall provide documentation satisfactory to the Town regarding

such self-insurance to the Town or (ii) is a United States government agency, such as the Tennessee Valley Authority, in which event, such owner shall provide documentation satisfactory to the town regarding such self-insurance to the Town ("Insurance").

Applicants seeking approval to build a tower shall provide proof of Insurance to the Town. Applicants seeking approval to place an antenna on an existing tower where the tower owner has met and continues to meet the requirements of the first paragraph of this Subsection 9(f) to the satisfaction of the Town Council shall provide proof of Insurance concerning the proposed antenna to the Town.

If any such tower or antenna is or will be located on Town property, the Insurance policies described in this Subsection (f) that relate to such tower or antenna shall name the Town of Signal Mountain, Tennessee, the Planning Commission of the Town of Signal Mountain, Tennessee, the Council of the Town of Signal Mountain, Tennessee, and all employees and agents of and attorneys for the Town of Signal Mountain, Tennessee, as additional insureds.

With respect to each Insurance policy, the tower or antenna owner, as the case may be, shall be required to provide documentary evidence satisfactory to the Town at least annually that the required Insurance is being maintained as to such tower or antenna. In the event that a tower or antenna owner fails to comply with the immediately preceding sentence, the Town may, in its sole discretion, either (i) require the tower or antenna owner to remove the antenna or tower at such owner's expense or (ii) remove the tower or antenna at such owner's expense and record a lien on such tower or antenna and/or the site thereof with respect to such removal expenses in the event that such owner fails to pay such removal expenses promptly, provided, however, that this clause (ii) shall in no event create any obligation on the part of the Town to remove such tower or antenna. (Amended January 20, 1999 by Ord. 99-4)

10. Removal of Abandoned Antennas and Towers. Any antenna or tower that is not operated for a continuous period of twelve months shall be considered abandoned, and the owner of such antenna or tower or the landowner shall remove the same within ninety days of receipt of notice from the Town of Signal Mountain notifying the owner of such abandonment. Failure to remove an abandoned antenna or tower within

said ninety days shall be grounds to remove the tower or antenna at the owner's and/or the landowner's expense and the Town of Signal Mountain may record a lien on such abandoned tower or antenna and/or the site thereof with respect to such removal expenses. If there are two or more users of a single tower, then the provisions of this Section 10 shall not become effective as to such tower until all users abandon the tower.

11. <u>Nonconforming Uses</u>.

- (a) No Expansion of Nonconforming Use. Towers that are constructed and antennas that are installed, in accordance with the provisions of this Ordinance shall not be deemed to constitute the expansion of a nonconforming use or structure.
- (b) Pre-existing Towers. Pre-existing towers shall be allowed to continue their usage as they presently exist. Routine maintenance (excluding replacement with a new tower of like construction and height) shall be permitted on such pre-existing towers. Work other than routine maintenance on a pre-existing tower shall comply with the requirements of this Ordinance.
- (c) Rebuilding Damaged or Destroyed Nonconforming Towers or Antennas. Building permits to rebuild nonconforming towers or antennas shall comply with this Article XXIV and the then applicable Ordinances and building codes and shall be obtained within 180 days from the date the facility is damaged or destroyed. If no permit is obtained or if said permit expires, the tower or antenna shall be deemed abandoned as specified in Section 10.
- 12. <u>Severability</u>. The various parts, sections and clauses of this part are hereby declared to be severable. If any part, sentence, paragraph, section or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of the Ordinance shall not be affected thereby.
- 13. <u>Repealer</u>. Any Ordinances or parts thereof in conflict with the provisions of this Ordinance are hereby repealed to the extent of such conflict.
- 14. This Ordinance shall be effective from and after its final passage, the public welfare requiring it.

PLAN OF OPERATION FOR THE OCCUPATIONAL SAFETY AND HEALTH PROGRAM FOR THE EMPLOYEES OF THE TOWN OF SIGNAL MOUNTAIN

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I. PURPOSE AND COVERAGE

The purpose of this plan is to provide guidelines and procedures for implementing the Occupational Safety and Health Program Plan (hereafter referred to as Program Plan) for the employees of the Town of Signal Mountain.

This plan is applicable to all employees, part-time or full-time, seasonal or permanent.

The Town of Signal Mountain in electing to update and maintain an effective Occupational Safety and Health Program Plan for its employees will:

- a. Provide a safe and healthful place and condition of employment.
- b. Require the use of safety equipment, personal protective equipment, and other devices where reasonably necessary to protect employees.
- c. Make, keep, preserve, and make available to the Commissioner of Labor and Workforce Development, his designated representatives, or persons within the Department of Labor and Workforce Development to whom such responsibilities have been delegated, including the Safety 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 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 regarding safety and health problems which are considered to be unusual or peculiar and are such that they cannot be resolved under an occupational safety and health standard promulgated by the State.
- f. Assist the Commissioner of Labor and Workforce Development or his monitoring activities to determine Program Plan 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 Plan.
- h. Provide reasonable opportunity for and encourage the participation of employees in the effectuation of the objectives of this Program Plan, including the opportunity to make anonymous complaints

concerning conditions or practices which may be injurious to employees' safety and health.

II. **DEFINITIONS**

For the purposes of this program plan, the following definitions apply:

- a. "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.
- b. "EMPLOYER" means the Town of Signal Mountain and includes each administrative department, board, commission, division, or other agency of the Town of Signal Mountain.
- c. "SAFETY DIRECTOR OF OCCUPATIONAL SAFETY AND HEALTH or SAFETY 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 Program Plan for the employees of the Town of Signal Mountain.
- d. "INSPECTOR(S)" means the individual(s) appointed or designated by the Safety Director of Occupational Safety and Health to conduct inspections provided for herein. If no such inspector(s) is appointed, inspections shall be conducted by the Safety Director of Occupational Safety and Health.
- e. "APPOINTING AUTHORITY" means any official or group of officials of the employer having legally designated powers of appointment, employment, or removal there from for a specific department, board, commission, division, or other agency of this employer.
- f. "EMPLOYEE" means any person performing services for this employer and listed on the payroll of this employer, 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.
- g. "PERSON" means one or more individuals, partnerships, associations, corporations, business trusts, or legal representatives of any organized group of persons.
- h. "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 practices, means, methods, 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.

- i. "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.
- j. "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.
- k. "SERIOUS INJURY or HARM" means that type of harm that would cause permanent or prolonged impairment of the body in that:
 - 1. 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
 - 2. 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.

- l. "ACT or TOSH Act" shall mean the Tennessee Occupational Safety and Health Act of 1972.
- m. "GOVERNING BODY" means the Town Council.
- n. "CHIEF EXECUTIVE OFFICER" means the Town Manager.

III. EMPLOYER'S RIGHTS AND DUTIES

Rights and duties of the employer shall include, but are not limited to, the following provisions:

a. 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.
- b. 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.
- c. Employer shall refrain from an 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 by making available information, personnel, or aids reasonably necessary to the effective conduct of the monitoring activity.
- d. Employer is entitled to participate in the development of standards by submission of comments on proposed standards, participation in hearing 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.
- e. Employer is entitled to request an order granting a variance from an occupational safety and health standard.
- f. Employer is entitled to protection of its legally privileged communication.
- g. Employer shall inspect all worksites to ensure the provisions of this Program Plan are complied with and carried out.
- h. 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 and of corrective action being taken.
- i. Employer shall notify all employees of their rights and duties under this Program Plan.

IV. EMPLOYEE'S RIGHTS AND DUTIES

Rights and duties of employees shall include, but are not limited to, the following provisions:

- a. Each employee shall comply with occupational safety and health act standards and all rules, regulations, and orders issued pursuant to this Program Plan and the Tennessee Occupational Safety and Health Act of 1972 which are applicable to his or her own actions and conduct.
- b. 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 TOSH Act or any standard or regulation promulgated under the Act.
- c. 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.
- d. Any employee who may be adversely affected by a standard or variance issued pursuant to the Act or this Program Plan 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.
- e. 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 any 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.
- f. Subject to regulations issued pursuant to this Program Plan, any employee or authorized representative of employees shall be given the right to request an inspection and to consult with the Safety Director or Inspector at the time of the physical inspection of the worksite.
- g. Any employee may bring to the attention of the Safety Director any violation or suspected violations of the standards or any other health or safety hazards.
- h. 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 Plan.
- i. Any employee who believes that he or she has been discriminated against or discharged in violation of subsection (h) of this section may file a complaint alleging such discrimination with the Safety 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.
- j. Nothing in this or any other provisions of this Program Plan 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 specific job.
- k. Employees shall report any accident, injury, or illness resulting from their job, however minor it may seem to be, to their

supervisor or the Safety Director within twenty-four (24) hours after the occurrence.

V. ADMINISTRATION

- a. The Safety 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 Plan.
 - 1. The Safety Director may designate person or persons as he deems necessary to carry out his powers, duties, and responsibilities under this Program Plan.
 - 2. The Safety Director may delegate the power to make inspections, provided procedures employed are as effective as those employed by the Safety Director.
 - 3. The Safety 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 Plan.
 - 4. The Safety 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 Plan.
 - 5. The Safety Director shall prepare the report to the Commissioner of Labor and Workforce Development required by subsection (g) of Section 1 of this plan.
 - 6. The Safety 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 recommendations to correct any hazards or exposures observed. He shall make or cause to be made any inspections required by complaints submitted by employees or inspections requested by employees.
 - 7. The Safety Director shall assist any officials of the employer in the investigation of occupational accidents or illnesses.
 - 8. The Safety Director shall maintain or cause to be maintained records required under Section VIII of this plan.
 - 9. The Safety Director shall, in the eventuality that there is a fatality, ensure that the Commissioner of Labor and Workforce Development receives notification of the occurrence within eight (8) hours. All work-related inpatient hospitalizations,

amputations, and loss of an eye must be reported to TOSHA within 24 hours.

- b. The administrative or operational head of each department, division, board, or other agency of this employer shall be responsible for the implementation of this Occupational Safety and Health Program Plan within their respective areas.
 - 1. The administrative or operational head shall follow the directions of the Safety Director on all issues involving occupational safety and health of employees as set forth in this plan.
 - 2. 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 Safety Director within the abatement period.
 - 3. 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.
 - 4. 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 Safety Director along with his findings and/or recommendations in accordance with APPENDIX IV of this plan.

VI. STANDARDS AUTHORIZED

The standards adopted under this Program Plan are the applicable standards developed and promulgated under Section VI (6) of the Tennessee Occupational Safety and Health Act of 1972. Additional standards may be promulgated by the governing body of this employer as that body may deem necessary for the safety and health of employees. Note: 29 CFR 1910 General Industry Regulations; 29 CFR 1926 Construction Industry Regulations; and the Rules of Tennessee Department of Labor and Workforce Development Occupational Safety and Health, CHAPTER 0800-01-1 through CHAPTER 0800-01-11 are the standards and rules invoked.

VII. VARIANCE PROCEDURE

The Safety 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 Safety 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:

- a. The application for a variance shall be prepared in writing and shall contain:
 - 1. A specification of the standard or portion thereof from which the variance is sought.
 - 2. 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.
 - 3. A statement of the steps employer has taken and will take (with specific date) to protect employees against the hazard covered by the standard.
 - 4. 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.
 - 5. 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.
- b. The application for a variance should be sent to the Commissioner of Labor and Workforce Development by registered or certified mail.
- c. 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:

1. 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 required 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 as effective Program Plan for coming into compliance with the standard as quickly as possible.
- 2. The employee is engaged in an experimental Program Plan as described in subsection (b), section 13 of the Act.
- d. A variance may be granted for a period of no longer than is required to achieve compliance or one (1) year, whichever is shorter.
- e. 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.
- f. 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 (see subsection (a)(5) of this section).

VIII. RECORDKEEPING AND REPORTING

Recording and reporting of all occupational accident, injuries, and illnesses shall be in accordance with instructions and on forms prescribed in the booklet. You can get a copy of the Forms for Recordkeeping from the internet. Go to www.osha.gov and type Recordkeeping Forms in the search box.

The position responsible for recordkeeping is shown on ACCIDENT REPORTING PROCEDURES, Appendix IV to this plan.

Details of how reports of occupational accidents, injuries, and illnesses will reach the recordkeeper are specified by ACCIDENT REPORTING PROCEDURES, Appendix IV to this plan. The Rule of Tennessee Department of Labor and Workforce Development Occupational Safety and Health, OCCUPATIONAL SAFETY AND HEALTH RECORD-KEEPING AND REPORTING, CHAPTER 0800-01-03, as authorized by T.C.A., Title 50.

IX. 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 Safety Director of Occupational Safety and Health.

- a. 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 (h) of Section 1 of this plan).
- b. Upon receipt of the complaint letter, the Safety 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 Safety 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.
- c. 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.
- d. 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.
- e. 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 Safety Director and the Chief Executive Officer or the representative of the governing body.
- f. Copies of all complaint and answers thereto will be filed by the Safety Director who shall make them available to the Commissioner of Labor and Workforce Development or his designated representative upon request.

X. EDUCATION AND TRAINING

- a. Safety Director and/or Inspector(s):
 - 1. Arrangements will be made for the Safety Director and/or Inspector(s) to attend training seminars, workshops, etc., conducted by the State of Tennessee or other agencies. A list of Seminars can be obtained.
 - 2. Access will be made to reference materials such as 29 CFR 1910 General Industry Regulations; 29 CFR 1926 Construction Industry Regulations; The Rules of Tennessee Department of Labor and Workforce Development Occupational Safety and Health, and other equipment/supplies, 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.
- b. All employees (including supervisory personnel):

A suitable safety and health training program for employees will be established. This program will, as a minimum:

1. Instruct each employee in the recognition and avoidance of hazards or unsafe conditions and of standards and regulations applicable to the employees work environment to control or eliminate any hazards, unsafe conditions, or other exposures to occupational illness or injury. (Deleted)

- 2. Instruct employees who are required to handle or use poisons, acids, caustics, toxicants, flammable liquids, or gases including explosives, and other harmful substances in the proper handling procedures and use of such items and make them aware of the personal protective measures, person hygiene, etc., which may be required.
- 3. 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.
- 4. Instruct all employees of the common deadly hazards and how to avoid them, such as Falls; Equipment Turnover; Electrocution; Struck by/Caught In; Trench Cave In; Heat Stress and Drowning.
- 5. 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 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.

XI. GENERAL INSPECTION PROCEDURES

It is the intention of the governing body and responsible officials to have an Occupational Safety and Health Program Plan that will ensure 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.

- a. In order to carry out the purposes of this Program Plan, the Safety Director and/or Inspector(s), if appointed, is authorized:
 - 1. 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;
 - 2. 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.
- b. If an imminent danger situation is found, alleged, or otherwise brought to the attention of the Safety Director or Inspector during a routine inspection, he shall immediately inspect the imminent danger situation in accordance with Section XII of this plan before inspecting the remaining portions of the establishment, facility, or worksite.
- c. 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 Safety Director or Inspector during the physical inspection of any worksite for the purpose of aiding such inspection.
- d. The right of accompaniment may be denied any person whose conduct interferes with a full and orderly inspection.

- e. The conduct of the inspection shall be such as to preclude unreasonable disruptions of the operation(s) of the workplace.
- f. Interviews of employees during the course of the inspection may be made when such interviews are considered essential to investigative techniques.
- g. Advance Notice of Inspections.
 - 1. 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 misleading impression of conditions in an establishment.
 - 2. 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.
- h. The Safety 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:
 - 1. Inspections conducted by supervisors or other personnel are at least as effective as those made by the Safety Director.
 - 2. Records are made of the inspections, any discrepancies found and corrective actions taken. This information is forwarded to the Safety Director.
- i. The Safety 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. Those inspection records shall be subject to review by the Commissioner of Labor and Workforce Development or his authorized representative.

XII. IMMINENT DANGER PROCEDURES

a. Any discovery, any allegation, or any report of imminent danger shall be handled in accordance with the following procedures:

- 1. The Safety 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.
- 2. If the alleged imminent danger situation is determined to have merit by the Safety Director, he shall make or cause to be made an immediate inspection of the alleged imminent danger location.
- 3. As soon as it is concluded from such inspection that conditions or practices exist which constitutes an imminent danger, the Safety Director or 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.
- 4. 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 Safety Director or Inspector and to the mutual satisfaction of all parties involved.
- 5. The imminent danger shall be deemed abated if:
 - i. The imminence of the danger has been eliminated by removal of 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.
- 6. A written report shall be made by or to the Safety Director describing in detail the imminent danger and its abatement. This report will be maintained by the Safety Director in accordance with subsection (i) of Section XI of this plan.

b. Refusal to Abate.

- 1. Any refusal to abate an imminent danger situation shall be reported to the Safety Director and Chief Executive Officer immediately.
- 2. The Safety Director and/or Chief Executive Officer shall take whatever action may be necessary to achieve abatement.

XIII. ABATEMENT ORDERS AND HEARINGS

- a. Whenever, as a result of an inspection or investigation, the Safety Director or 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 Safety Director shall:
 - 1. Issue an abatement order to the head of the worksite.
 - 2. Post or cause to be posted, a copy of the abatement order at or near each location referred to in the abatement order.
- b. Abatement orders shall contain the following information:
 - 1. The standard, rule, or regulation which was found to violated.
 - 2. A description of the nature and location of the violation.
 - 3. A description of what is required to abate or correct the violation.
 - 4. A reasonable period of time during which the violation must be abated or corrected.
- c. At any time within ten (10) days after receipt of an abatement order, anyone affected by the order may advise the Safety Director in writing of any objections to the terms and conditions of the order. Upon receipt of such objections, the Safety Director shall act promptly to hold a hearing with all interested and/or responsible parties in an effort to resolve any objections. Following such hearing, the Safety 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.

XIV. PENALTIES

- a. 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 Plan.
- b. 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:

- 1. Oral reprimand.
- 2. Written reprimand.
- 3. Suspension for three (3) or more working days.
- 4. Termination of employment.

XV. CONFIDENTIALITY OF PRIVILEGED INFORMATION

All information obtained by or reported to the Safety Director pursuant to this plan of operation or the legislation (ordinance, or executive order) enabling this Occupational Safety and Health Program Plan 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 Plan or when relevant in any proceeding under this Program Plan. 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.

XVI. DISCRIMINATION INVESTIGATIONS AND SANCTIONS

The Rule of Tennessee Department of Labor and Workforce Development Occupational Safety and Health, DISCRIMINATION AGAINST EMPLOYEES EXERCISING RIGHTS UNDER THE OCCUPATIONAL SAFETY AND HEALTH ACT OF 1972 0800-01-08, as authorized by T.C.A., Title 50. The agency agrees that any employee who believes they have been discriminated against or discharged in violation of Tenn. Code Ann § 50-3-409 can file a complaint with their agency/safety Safety Director within 30 days, after the alleged discrimination occurred. Also, the agency agrees the employee has a right to file their complaint with the Commissioner of Labor and Workforce Development within the same 30-day period. The Commissioner of Labor and Workforce Development may investigate such complaints, make recommendations, and/or issue a written notification of a violation.

XVII. COMPLIANCE WITH OTHER LAWS NOT EXCUSED

a. Compliance with any other law, statute, ordinance, or executive order, which regulates safety and health in employment and places of employment, shall not excuse the employer, the employee, or

Date

- any other person from compliance with the provisions of this Program Plan.
- b. Compliance with any provisions of this Program Plan or any standard, rule, regulation, or order issued pursuant to this Program Plan shall not excuse the employer, the employee, or any other person from compliance with the law, statue, 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.

Safety Service Director Occupational Safety and Health

APPENDIX I – WORK LOCATIONS

(ORGANIZATIONAL CHART)

Town Hall – 10 employees 1111 Ridgeway Avenue Signal Mountain, TN 37377 423-886-2177

Police Department – 16.5 employees 1111 Ridgeway Avenue Signal Mountain, TN 37377 423-886-2124

Fire Department Station 1 - 20.5 employees 1111 Ridgeway Avenue Signal Mountain, TN 37377 423-886-7075

Fire Department Station 2 - 9 employees 5240 Shackleford Ridge Rd. Signal Mountain, TN 37377 423-498-1343

Library – 5 employees 1114 James Blvd. Signal Mountain, TN 37377 423-886-7323

Water Utility Department - 5 employees 111 Ridgeway Avenue Signal Mountain, TN 37377 423-886-2177

Public Works Department - 16 employees 714 Mississippi Avenue Signal, Mountain, TN 37377 423-886-2177

Parks and Rec. Department - 11 employees 1111 Ridgeway Avenue Signal Mountain, TN 37377 423-886-2177

TOTAL NUMBER OF EMPLOYEES: 93 full-time and regular part-time employees (seasonal not included)

APPENDIX II - NOTICE TO ALL EMPLOYEES

NOTICE TO ALL EMPLOYEES OF THE TOWN OF SIGNAL MOUNTAIN

The Tennessee Occupational Safety and Health Act of 1972 provide 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, this government, as an employer, is responsible for administering the Act to its employees. Safety and health standards are the same as State standards and jobsite inspections will be conducted to ensure 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 Plan 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 Plan may file a petition with the Safety Director.

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 Plan, 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 Plan.

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 for reconsideration before the Safety Director for assistance in obtaining relief or to file a complaint with the Commissioner of Labor and Workforce Development alleging such discrimination.

A copy of the Occupational Safety and Health Program Plan for the Employees of the Town of Signal Mountain is available for inspection by any employee at the Town Hall, 1111 Ridgeway Ave., Signal Mountain, TN 37377, during regular office hours.

Charles Poss, Mayor	
5/21/21	
Date	

APPENDIX III - PROGRAM PLAN BUDGET

STATEMENT OF FINANCIAL RESOURCE AVAILABILITY

Be assured that the Town of Signal Mountain has sufficient financial resources available or will make sufficient financial resources available as may be required in order to administer and staff its Occupational Safety and Health Program Plan and to comply with standards.

APPENDIX IV - ACCIDENT REPORTING PROCEDURES

Employees shall report all accidents, injuries, or illnesses to their supervisors as soon as possible, but not later than two (2) hours after the occurrence. The supervisor will provide the Safety 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, inpatient hospitalizations, amputations, and losses of an eye shall be reported to the Safety 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 Safety Director or Inspector, if necessary) and will complete a written report on the accident or illness and forward it to the Safety 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 recordkeeper.

Since Workers Compensation Form 6A or OSHA NO. 301 Form must be completed; all reports submitted in writing to the person responsible for recordkeeping shall include the following information as a minimum:

- Accident location, if different from employer's 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. (as replaced by Ord. #2008-2, Feb. 2008, Ord. #2013-16, Aug. 2013, and Ord. #2021-06, May 2021 *Ch20-06-28-21*)

ORDINANCE NO. 7/-/ 3

AN ORDINANCE ADOPTING AND ENACTING A CODIFICATION AND REVISION OF THE ORDINANCES OF THE TOWN OF SIGNAL MOUNTAIN, TENNESSEE.

WHEREAS some of the ordinance of the Town of Signal Mountain are obsolete, and

WHEREAS some of the other ordinances of the town are inconsistent with each other or are otherwise inadequate, and

WHEREAS the Town Council of the Town of Signal Mountain, 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 "Signal Mountain Municipal Code," now, therefore:

BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF SIGNAL MOUNTAIN, TENNESSEE, THAT:

- Section 1. Ordinances codified. The ordinances of the town of a general, continuing, and permanent application or of a penal nature, as codified and revised in the following "titles," namely "titles" 1 to 20, both inclusive, are ordained and adopted as the "Signal Mountain 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.
- Section 3. Ordinances saved from repeal. The repeal provided for in the preceding section of this ordinance shall not affect:
- (1) 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;
- (2) Any ordinance or resolution promising or requiring the payment of money by or to the town or authorizing the issuance of any bonds or other evidence of the said town's indebtedness or any contract or obligation assumed by or in favor of said town:
- (3) Any administrative ordinances or resolutions not in conflict or inconsistent with the provisions of such code;

- (4) 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 names public street or way;
- (5) 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;
- (6) Any ordinance providing for local improvements and special assessments therefor; any ordinance dedicating or accepting any plat or subdivision;
- (7) Any prosecution, suit, or other proceeding pending or any judgment rendered on or prior to the effective date of said code;
 - (8) Any right or franchise granted by the town;
- (9) Any ordinance fixing the salary of any town officer or employee or the amount of any bond required of any officer, employee or agent of the town:
 - (10) Any appropriation ordinance or any ordinance levying any tax;
- (11) Any ordinance approving or amending the rules and regulations of any board, commission, legislature or other agency of the town;
 - (12) Any ordinance annexing territory to the town;
- (13) Any zoning ordinance or any ordinance amending the zoning map of the town;
 - (14) Any ordinance regulating subdivisions;
- (15) Any ordinance which, according to its own terms, is effective only for a stated or limited time;
- (16) Any ordinance establishing or amending a city employee pension plan;
- (17) Any ordinance establishing or regulating the Signal Mountain Regional Transportation Authority;
- (18) Any ordinance establishing an air pollution control board and regulating air pollution within the city;
- Section 4. <u>Continuation of existing provisions</u>. 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. <u>Penalty clause</u>. (1) 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 an 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 five hundred dollars (\$500.00) and costs for each separate violation.

As set forth in Public Chapter 393, House Bill No. 453 as passed by the Tennessee Legislature May 12, 1993 and approved by Governor Ned McWherter on May, 1993 the authority for increased monetary penalties for ordinance violations provided by this amendment shall not apply to ordinances regulating all moving traffic violations. 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. (as amended by Ord. #93-11, § 1, Aug. 1993)

Section 6. <u>Code as evidence</u>. Any printed copy of the Municipal Code certified under the signature of the recorder shall be held to be a true and correct copy of such codification and may be read in evidence in any court without further proof of the provisions contained therein.

Section 7. <u>Severability clause</u>. Each section, subsection, paragraph, sentence, and clause of the Municipal Code, including the codes and ordinances adopted by reference, is hereby declared to be separable and severable. The invalidity of any section, subsection, paragraph, sentence, or clause in the Municipal Code shall not affect the validity of any other portion of said code, and only any portion declared to be invalid by a court of competent jurisdiction shall be deleted therefrom.

Section 8. Reproduction and amendment of code. (1) The Municipal Code shall be reproduced in loose-leaf form. The town council, by motion or resolution, shall fix, and change from time to time as considered necessary, the prices to be charged for copies of the Municipal Code and revisions thereto. After adoption of the Municipal Code, each ordinance affecting the code shall be adopted as amending, adding, or deleting, by numbers, specific chapters or sections of said code. Periodically thereafter all affected pages of the Municipal Code shall be revised to reflect such amended, added, or deleted material and shall be distributed to city officers and employees having copies of said code and to other persons who have requested and paid for current revisions. Notes shall be inserted at the end of amended or new sections, referring to the numbers of ordinances making the amendments or adding the new provisions, and such references shall be cumulative if a section is amended more than once in order that the current copy of the Municipal Code will contain references to all ordinances responsible for current provisions. One copy of the Municipal Code as originally adopted and one copy of each amending ordinance thereafter adopted shall be furnished to the Municipal Technical Advisory Service immediately upon final passage and adoption.

(2) Any and all additions and amendments to such code, when passed in such form as to indicate the intention of the town council to make the same a part thereof, shall be deemed to be incorporated in such code so that

reference to the Code of Ordinances of the Town of Signal Mountain, Tennessee, shall be understood and intended to include such additions and amendments.

Section 9. It shall be unlawful for any person to change or amend, by additions or deletions, any part or portion of such code, or to insert or delete pages or portions thereof, or to alter or tamper with such code in any manner whatsoever which will cause the law of the town to be misrepresented thereby. Any person violating this section shall be punished as provided in Section 5 of this ordinance.

Section 10. <u>Construction of conflicting provisions</u>. Where any provision of the Municipal Code is in conflict with any other provision in said code, the provision which establishes the higher standard for the promotion and protection of the public health, safety, and welfare shall prevail.

Section 11. <u>Code available for public use</u>. Three copies of the Municipal Code shall be kept available in the town hall for public use and inspection at all reasonable times.

Section 12. <u>Date of effect</u>. This ordinance shall take effect from and after its final passage, the public welfare requiring it, and the Municipal Code, including all the codes and ordinances therein adopted by reference, shall be effective on and after that date.

Passed 1st reading October 14

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Passed 2nd reading November 11 , 1991.	
s/R. Phil Corker Mayor	
s/Richard Sonnenburg Recorder	

. 1991.

ORDINANCE NO. 93-5

AN ORDINANCE ADOPTING AND ENACTING SUPPLEMENTAL AND REPLACEMENT PAGES FOR THE MUNICIPAL CODE OF THE TOWN OF SIGNAL MOUNTAIN, TENNESSEE.

BE IT ORDAINED BY THE COUNCIL OF THE TOWN OF SIGNAL MOUNTAIN, TENNESSEE, THAT:

Section 1. Ordinances codified. The supplemental and replacement pages contained in Appendix A to the Town of Signal Mountain Municipal Code, hereinafter referred to as the "supplement," are incorporated by reference as if fully set out herein and are ordained and adopted as part of the Town of Signal Mountain Municipal Code.

<u>Section 2</u>. <u>Continuation of existing provisions</u>. Insofar as the provisions of the supplement are the same as those of ordinances existing and in force on its effective date, the provisions shall be considered to be continuations thereof and not as new enactments.

Section 3. Penalty clause. Wherever in the supplement, including any codes and ordinances adopted by reference, any act is prohibited or is made or declared to be unlawful or an offense or a misdemeanor, or wherever in the supplement the doing of an act is required or the failure to do any act is declared to be unlawful, the violation of any such provision of the supplement shall be punishable by a penalty of not more than five hundred dollars (\$500.00) and costs for each separate violation.

As set forth in Public Chapter 393, House Bill No. 453 as passed by the Tennessee Legislature May 12, 1993 and approved by Governor Ned McWherter on May, 1993 the authority for increased monetary penalties for ordinance violations provided by this amendment shall not apply to ordinances regulating all moving traffic violations. 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. (as amended by Ord. #93-11, § 1, Aug. 1993)

Section 4. Severability clause. Each section, subsection, paragraph, sentence, and clause of the supplement, including any codes and ordinances adopted by reference, are hereby declared to be separable and severable. The invalidity of any section, subsection, paragraph, sentence, or clause in the supplement shall not affect the validity of any other portion, and only any portion declared to be invalid by a court of competent jurisdiction shall be deleted therefrom.

Section 5. Construction of conflicting provisions. Where any provision of the supplement is in conflict with any other provision of the supplement or municipal code, the provision which establishes the higher standard for the promotion and protection of the public health, safety, and welfare shall prevail.

Section 6. Code available for public use. Three copies of the supplement shall be kept available in the recorder's office for public use and inspection at all reasonable times.

Section 7. Date of effect. This supplement, including all the codes and ordinances therein adopted by reference, shall take effect from and after final passage, the public welfare requiring it, and shall be effective on and after that date.

Passed 1st reading <u>March 8</u>	, 19 <u>93</u> .	
Passed 2nd reading <u>April 12</u>	, 19 <u>93</u> .	
·	s/R. Phil Corker Mayor	~
	s/Richard W. Sonnenburg Recorder	

ORDINANCE NO. 2002-1

AN ORDINANCE ADOPTING AND ENACTING SUPPLEMENTAL AND REPLACEMENT PAGES FOR THE MUNICIPAL CODE OF THE TOWN OF SIGNAL MOUNTAIN, TENNESSEE.

BE IT ORDAINED BY THE COUNCIL OF THE TOWN OF SIGNAL'
MOUNTAIN, TENNESSEE, THAT:

SECTION 1. Ordinances Codified. The supplemental and replacement pages contained in Appendix A to the Town of Signal Mountain Municipal Code as provided by the Municipal Technical Advisory Service (MTAS) on October 8, 2001, hereinafter referred to as the "supplement," are incorporated by reference as if fully set out herein and are ordained and adopted as part of the Town of Signal Mountain Municipal Code.

SECTION 2. Continuation of existing provisions. Insofar as the provisions of the supplement are the same as those of ordinances existing and in force on its effective date, the provisions shall be considered to be continuations thereof and not as new enactments.

SECTION 3. Penalty Clause. Unless otherwise specified, wherever in the supplement, including any codes and ordinances adopted by reference, any act is prohibited or is made or declared to be unlawful or an offense or a misdemeanor, or wherever 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 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 supplement or the municipal code or other applicable law.

When any person is fined for violating any provision of the supplement and defaults on any payment of the penalty, he or she may be required imprisoned until the penalty is discharged by payment, or until the person, being credited with such sum as may be prescribed for any time served in lieu of payment, has fully discharged the penalty.¹

Each day any violation of a provision of the supplement continues shall constitute a separate offense.

SECTION 4. Severability Clause. Each section, subsection, paragraph, sentence, and clause of the supplement, including any codes and ordinances adopted by reference, are hereby declared to be separable and severable. The invalidity of any section, subsection, paragraph, sentence, or clause in the supplement shall not affect the validity of any other portion, and only any portion declared to be invalid by a court of competent jurisdiction shall be deleted therefrom.

SECTION 5. Construction of Conflicting Provisions. Where any provision of the supplement is in conflict with any other provision of the supplement or municipal code, the provision which establishes the higher standard for the promotion and protection of the public health, safety, and welfare shall prevail.

SECTION 6. Code Available for Public Use. One (1) copy of the supplement shall be

¹State law reference

For authority to allow deferred payment of fines, or payment by installments, see <u>Tennessee Code Annotated</u>, ' 40-24-101, <u>et seq</u>.

Change 8, March 10, 2003

SUPP2-3

kept available in the Recorder's Office for public use and inspection at all reasonable times.

SECTION 7. Date of Effect. This supplement, including all the codes and ordinances therein adopted by reference, shall take effect from and after final passage, the public welfare requiring it, and shall be effective on and after that date.

Passed 1st reading 2-//- 2002, 2002.

Passed 2nd reading 3//-2002, 2002.

MAYOR

RECORDER