

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

1. MUNICIPAL PLANNING COMMISSION.
2. ZONING ORDINANCE.
3. MOBILE HOME PARK REGULATIONS.
4. PRESERVATION DISTRICT PROVISIONS.

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

- 14-101. Creation and membership.
- 14-102. Organization, powers, duties, etc.
- 14-103. Continuing education.

14-101. Creation and membership. Pursuant to the provisions of Tennessee Code Annotated, § 13-4-101, there is hereby created a municipal planning commission, hereinafter referred to as the planning commission. The planning commission shall consist of seven (7) members; two (2) of these shall be the mayor and another member of the board of mayor and aldermen selected by the board of mayor and aldermen; the other five (5) members shall be appointed by the mayor. All members of the planning commission shall serve as such without compensation. Except for the initial appointments, the terms of the five (5) members appointed by the mayor shall be for five (5) years each. The five (5) members first appointed shall be appointed for terms of one (1), two (2), three (3), four (4), and five (5) years respectively so that the term of one (1) member expires each year. The terms of the mayor and the member selected by the board of mayor and aldermen shall run concurrently their terms of office. Any vacancy in an appointive membership shall be filled for the unexpired term by the mayor. (1979 Code, § 11-101)

14-102. Organization, powers, duties, etc. The planning commission shall be organized and shall carry out its powers, functions, and duties in accordance with all applicable provisions of Tennessee Code Annotated, title 13. (1979 Code, § 11-102)

14-103. Continuing education. The required four (4) hours of training and continuing education, mandated to the planning commission and the board of zoning appeals, be opted out of in accordance with the Tennessee Code Annotated, §§ 13-3-101, 13-4-101, and 13-7-205. (as added by Ord. #2173, Dec. 2015)

CHAPTER 2

ZONING ORDINANCE

SECTION

14-201. Land use to be governed by zoning ordinance.

14-201. Land use to be governed by zoning ordinance. Land use within the Town of Tiptonville shall be governed by Ordinance #2055, titled "Zoning Ordinance, Tiptonville, Tennessee," and any amendments thereto.¹

¹Ordinance #2055, and any amendments thereto, are published as separate documents and are of record in the office of the recorder.

CHAPTER 3

MOBILE HOME PARK REGULATIONS

SECTION

- 14-301. Definitions as used in this chapter.
- 14-302. Regulating mobile homes.
- 14-303. Regulating mobile home parks.
- 14-304. Permit.
- 14-305. Fees for permit.
- 14-306. Application for permit.
- 14-307. Enforcement.
- 14-308. Appeals.
- 14-309. Violation and penalty.

14-301. Definitions as used in this chapter. Except as specifically defined herein, all words used in this chapter have their customary dictionary definitions where not inconsistent with the context. For the purpose of this chapter certain words or terms are defined as follows. The term "shall" is mandatory. When not inconsistent with the context, words used in the singular number include the plural and those used in the plural number include the singular. Words used in the present tense include the future.

(1) "Mobile home (trailer)." A detached single-family dwelling unit with any or all of the following characteristics:

(a) Designed for long-term occupancy, and containing sleeping accommodations, a flush toilet, a tub or shower bath and kitchen facilities, with plumbing and electrical connections provided for attachment to outside systems.

(b) Designed to be transported after fabrication on its own wheels, or on a flatbed or other trailer or detachable wheels.

(c) Arriving at the site where it is to be occupied as a complete dwelling including major appliances and furniture, and ready for occupancy except for minor and incidental unpacking and assembly operations, location of foundation supports, connection to utilities and the like.

(2) "Mobile home park." The term mobile home park shall mean any plot of ground within the Town of Tiptonville on which two (2) or more mobile homes, occupied for dwelling or sleeping purposes, are located.

(3) "Mobile home space." The term mobile home space shall mean a plot of ground within a mobile home park designated for the accommodation of one (1) mobile home.

(4) "Health officer." The director of a town, county, or district health department having jurisdiction over the community health in a specific area, or his duly authorized representative.

(5) "Permit (license)." A permit is required for mobile home parks and travel trailer parks. Fees charged under the permit requirement are for inspection and the administration of this chapter.

(6) "Modular home." A factory fabricated transportable building design to be used by itself or to be incorporated with similar units at a building to apply to major assemblies and does not include prefabricated panels, trusses, plumbing trees, and other prefabricated subelements which are to be incorporated into a structure at the site. The unit is not built on a chassis, has never had wheels, is placed on a permanent foundation and is required to meet local building, housing, plumbing and electrical codes. (1979 Code, § 8-601)

14-302. Regulating mobile homes. (1) It shall be unlawful for any mobile home to be used, stored, or placed on any lot or serviced by the utilities of said town where said mobile home is outside of any designated and licensed mobile home park after the date of passage of this chapter, except as provided in § 14-302(2). Mobile homes shall not be used as dwelling units except in said mobile home parks.

(2) Any mobile home already placed on a lot on or before the date of passage of this chapter will be permitted to remain at its present location. If said present mobile home shall remain vacant for a period of one year, said mobile home owner shall be given at the end of the year, a period not to exceed sixty (60) days in which to remove said mobile home and to comply with all provisions of this chapter. If said mobile home is removed from site, said mobile home shall not be allowed to return until the mobile home site meets all the requirements of this chapter.

(3) No mobile home shall be used, placed, stored or serviced by utilities within the Town of Tiptonville or within any mobile home park in said town unless there is posted near the door of said mobile home a valid Tennessee State License. (1979 Code, § 8-602)

14-303. Regulating mobile home parks. (1) Permit for mobile home park. No place or site within said town shall be established or maintained by any person, group of persons, or corporation as a mobile home park unless he holds a valid permit issued by the town building inspector in the name of such person or persons for the specific mobile home park. The town building inspector is authorized to issue, suspend, or revoke permits in accordance with the provisions of this chapter.

Mobile home parks in existence as of the effective date of this town shall be required to obtain a mobile home park permit. Preexisting mobile home parks which cannot comply with the requirements regarding mobile home parks shall be considered as a non-conforming use, provided, however, if at any time the ownership of said park shall change, said new owner shall be given a period not to exceed ninety (90) days in which to comply with the current mobile home

park regulations in all respects and his failure to do so shall render him ineligible for a mobile home park permit at his then present location.

Said pre-existing mobile home parks shall comply with all state regulations applicable thereto which were in force prior to the establishment of said mobile home park.

(2) Inspections by town building inspector. The town building inspector is hereby authorized and directed to make inspections to determine the condition of mobile home parks, in order that he may perform his duty of safeguarding the health and safety of occupants of mobile home parks and of the general public. The town building inspector shall have the power to enter at reasonable times upon any private or public property for the purpose of inspecting and investigating conditions relating to the enforcement of this chapter.

(3) Length of occupancy. No mobile home space shall be rented in any mobile home park except for periods of thirty (30) days, or longer.

(4) Code compliance. No mobile home shall be admitted to any park unless it can be demonstrated that it meets the requirements of the American Standards Association Code.

Provision A-119.1-1963; American Standard for Installation in Mobile Home of Electrical, Heating and Plumbing Systems, or Mobile Homes Manufacturing Association Mobile Home Standards for Plumbing, Heating and Electrical Systems or any state administered code insuring equal or better plumbing, heating or electrical installations.

(5) Location and planning. The mobile home park shall be located on a well-drained site and shall be so located that its drainage will not endanger any water supply and shall be in conformity with a plan approved by the town planning commission.

(6) Minimum size of mobile home park. The tract of land for the mobile home park shall comprise an area of not less than one (1) acre. The tract of land shall consist of a single plot so dimensioned and related as to facilitate efficient design and management.

(7) Minimum number of spaces. Minimum number of spaces completed and ready for occupancy before first occupancy is two (2).

(8) Minimum area and yard requirements for mobile home spaces. Mobile home spaces shall be clearly defined, and contain a minimum lot area of four thousand (4,000) square feet.

The minimum yard requirements for all individual mobile home spaces in a mobile home park are:

(a) Front yards for individual mobile home spaces shall be a minimum of twenty (20) feet.

(b) Side yards for individual mobile home spaces shall be a minimum of ten (10) feet.

(c) Rear yards for individual mobile home spaces shall be a minimum of fifteen (15) feet.

Mobile homes shall be placed no closer than twenty (20) feet from the mobile home park property line, and no closer than thirty-five (35) feet from the right-of-way of any public street or highway.

(9) Water supply. Where a public water supply is available, it shall be used exclusively. The development of an independent water supply to serve the mobile home park shall be made only after written approval of plans and specifications has been granted by the county health officer. In those instances where an independent system is approved, the water shall be from a supply properly located, protected, operated, and shall be adequate in quantity and approved in quality. Samples of water for bacteriological examination shall be taken before initial approval of the physical structure and thereafter at least twice every month and when any repair or alteration of the water supply system has been made. If a positive sample is obtained, it will be the responsibility of the mobile home park operator to provide such treatment as is deemed necessary by the health officer to maintain a safe, potable water supply. Water shall be furnished at the minimum capacity of two hundred and fifty (250) gallons per day per mobile home space. An individual water service connection and meter shall be provided for each mobile home space. The water supply must also be adequate for fire protection.

(10) Sewage disposal. An adequate sewage disposal system must be provided and must be approved in writing by the health officer. Each mobile home space shall be equipped with at least a four (4) inch sewer connection, trapped below the frost line and reaching at least four (4) inches above the surface of the ground. The sewer connection shall be protected by a concrete collar, at least three (3) inches deep and extending twelve (12) inches from the connection in all directions. All sewer lines shall be laid in trenches separated at least ten (10) feet horizontally from any drinking water supply line.

Every effort shall be made to dispose of the sewage through a public sewerage system. In lieu of this, a septic tank and sub-surface soil absorption system may be used provided the soil characteristics are suitable and an adequate disposal area is available. The minimum size of any septic tank so installed under any condition shall not be less than seven hundred fifty (750) gallons working capacity. This size tank can accommodate a maximum of two (2) mobile homes. For each additional mobile home on such a single tank, a minimum additional liquid capacity of one hundred seventy-five (175) gallons shall be provided. The sewage from no more than twelve (12) mobile homes shall be disposed of in any one (1) single tank installation. The size of such tank shall be a minimum of two thousand five hundred (2,500) gallons liquid capacity.

The amount of effective soil absorption area or total bottom area of overflow trenches will depend on local soil conditions and shall be determined only on the basis of the percolation rate of the soil. The percolation rate shall be determined as outlined in Appendix A of the Tennessee Department of Health Bulletin, entitled "Recommended Construction of Large Septic Tank

Disposal Systems for Schools, Factories and Institutions." This bulletin is available on request from the Department. No mobile home shall be placed over a soil absorption field.

In lieu of a public sewerage or septic tank system, an officially approved package treatment plant may be used.

(11) Refuse. The storage, collection and disposal of refuse in the park shall be so managed as to create no health hazard. All refuse shall be stored in fly proof, water tight, and rodent proof containers. Satisfactory container racks or holders shall be provided. Garbage shall be collected and disposed of in an approved manner at least once per week.

(12) Electricity. An electrical outlet supplying at least two hundred twenty (220) volts shall be provided for each mobile home space and shall be weatherproof and accessible to the parked mobile home. All electrical installations shall be in compliance with the National Electrical Code and Tennessee Department of Insurance and Banking Regulation No. 15 entitled, "Regulations Relating to Electrical Installations in the State of Tennessee," and shall satisfy all requirements of the local electric service organization.

(13) Illumination. The park driveways shall be furnished with 400 watt mercury lamps at intervals of 100 feet approximately 30 feet from the ground. Adequate lighting recommended by the local light company and approved by the city planning commission may be used in lieu of the above requirement.

(14) Streets. Minimum pavement widths of various streets within mobile home parks shall be:

All streets. 24 feet

Streets shall have a gravel base consisting of size (Grade D) stone compacted to six (6) inches and a paved surface of asphaltic concrete (hot mix) -- as specified in the Tennessee Department of Highways Standard Specifications for Road and Bridge Construction, 1968, Section 411 -- compacted to one (1) inch with not less than an average weight of one hundred (100) pounds per square yard.

(15) Liquified petroleum gas. Liquified petroleum gas for cooking purposes shall not be used at individual mobile home spaces unless the containers are properly connected by copper or other suitable metallic tubing. Liquified petroleum gas cylinders shall be securely fastened in place, and adequately protected from the weather. No cylinder containing liquified petroleum gas shall be located in a mobile home, nor within five (5) feet of a door thereof.

(16) Parking spaces. Car parking shall be provided in sufficient number to meet the needs of the occupants of the property and their guests without interference with normal movement of traffic. Such facilities shall be provided at the rate of at least two (2) car spaces for each mobile home lot. Each individual parking space shall have a minimum width of not less than ten (10) feet and length of not less than twenty (20) feet. The parking spaces shall be

located so access can be gained only from the internal streets of the mobile home park.

(17) Buffer strip. An evergreen buffer strip consisting of trees, shrub or hedge with a minimum planted height of not less than six (6) feet which will grow to a height of not less than ten (10) feet and be spaced not more than ten (10) feet apart shall be planted along all boundaries of the mobile home park. The above requirement is subject to planning commission approval.

(18) Park maintenance. All service buildings, mobile homes, mobile home spaces and the grounds of the park shall be maintained in a clean, sightly condition and kept free of any conditions that will menace the health of any occupant or the public or constitute a nuisance.

(19) Register of occupants. It shall be the duty of the licensee to keep a register containing a record of all mobile home owners and occupants located within the park. The register shall contain the following information:

- (a) Name and address of each occupant;
- (b) The make, model and year of all mobile homes;
- (c) License number and owner of each mobile home;
- (d) The state issuing such license;
- (e) The dates of arrival and departure of each mobile home.

The park shall keep the register available for inspection at all times by law enforcement officers, public health officials and other officials whose duties necessitate acquisition of the information contained in the register. The register records shall not be destroyed for a period of five (5) years following the date of registration. (1979 Code, § 8-603)

14-304. Permit. The following requirements for permits shall apply to any mobile home park within the corporate limits of Tiptonville.

(1) Mobile home parks. It shall be unlawful for any person or persons to maintain or operate, within the corporate limits of said city any mobile home park unless such person or persons shall first obtain a permit therefor. (1979 Code, § 8-604)

14-305. Fees for permit. An annual permit fee shall be required for mobile home parks.

(1) Mobile home parks. The annual permit fee for mobile home parks shall be twenty-five (25) dollars for the first (2) spaces approved and ten (10) dollars for each space approved thereafter. (1979 Code, § 8-605)

14-306. Application for permit. (1) Mobile home parks. Applications for a mobile home park shall be filed with and issued by the town building inspector subject to the planning commission's approval of the mobile home park plan. Applications shall be in writing and signed by the applicant and shall be accompanied by an approved plan of the proposed mobile home park. The plan

shall contain the following information and conform to the following requirements:

- (a) The plan shall be clearly and legibly drawn at a scale not smaller than one hundred (100) feet to one (1) inch;
 - (b) Name and address of owner of record;
 - (c) Proposed name of park;
 - (d) North point and graphic scale and date;
 - (e) Vicinity map showing location and acreage of mobile home park;
 - (f) Exact boundary lines of the tract by bearing and distance;
 - (g) Names of owners of record of adjoining land;
 - (h) Existing streets, utilities, easements, and water courses on and adjacent to the tract;
 - (i) Proposed design including streets, proposed street names, lot lines with approximate dimensions, easements, land to be reserved or dedicated for public uses, and any land to be used for purposes other than mobile home spaces;
 - (j) Provisions for water supply, sewerage and drainage;
 - (k) Such information as may be required by said town to enable it to determine if the proposed park will comply with legal requirements; and
 - (l) The applications and all accompanying plans and specifications shall be filed in triplicate.
- (2) Certificates. Certificates that shall be required are:
- (a) Owner's certification;
 - (b) Planning commission's approval signed by secretary; and
 - (c) Any other certificates deemed necessary by the planning commission. (1979 Code, § 8-606)

14-307. Enforcement. It shall be the duty of the county health officer and town building inspector to enforce provisions of this chapter. (1979 Code, § 8-607)

14-308. Appeals. (1) Board of appeals. The Tiptonville Board of Zoning Appeals shall serve as the board of appeals and shall be guided by procedures and powers compatible with state law.

Any party aggrieved because of an alleged error in any order, requirement, decision or determination made by the building inspector in the enforcement of this chapter, may appeal for and receive a hearing by the board of zoning appeals for an interpretation of pertinent ordinance provisions. In exercising this power of interpretation of the ordinance, the board of zoning appeals, may, in conformity with the provisions of this chapter, reverse or affirm any order, requirement, decision or determination made by the building

inspector. An administrative fee of ten (10) dollars shall be paid prior to appearing before the board of zoning appeals.

(2) Appeals from board of appeals. Any person or persons or any board, taxpayer, department, or bureau or the town aggrieved by any decision of the board of zoning appeals may seek review by a court of record of such decision in the manner provided by the laws of the State of Tennessee. (1979 Code, § 8-608)

14-309. Violation and penalty. Any person or corporation who violates the provisions of this chapter or the rules and regulations adopted pursuant thereto, or fails to perform the reasonable requirements specified by the town building inspector or county health officer after receipt of thirty-five (35) days written notice of such requirements, shall be fined not less than twenty-five dollars (\$25.00) nor more than fifty dollars (\$50.00) for each offense, and each day of continued violation shall constitute a separate offense, subsequent to receipt of said thirty-five (35) day notice. (1979 Code, § 8-609)

CHAPTER 4

PRESERVATION DISTRICT PROVISIONS

SECTION

- 14-401. Statement of purpose.
- 14-402. Preservation commission: composition and terms.
- 14-403. Powers of the commission.
- 14-404. Rules of order (by-laws).
- 14-405. Designation of landmarks, landmark sites, and historic districts.
- 14-406. Preservation permit.
- 14-407. Criteria for issuance of preservation permits.
- 14-408. Procedures for issuance of preservation permits.
- 14-409. Economic hardship.
- 14-410. Appeals.
- 14-411. Minimum maintenance requirements.
- 14-412. Public safety exclusion.
- 14-413. Enforcement and penalties.
- 14-414. Appropriations.
- 14-415. Disqualification of members by conflict of interest.

14-401. Statement of purpose. Such preservation activities will promote and protect the health, safety, prosperity, education, and general welfare of the people living in and visiting.

More specifically, this historic preservation chapter is designed to achieve the following goals:

- (1) Protect, enhance and perpetuate resources which represent distinctive and significant elements of the town's historical, cultural, social, economic, political archaeological, and architectural identity;
- (2) Insure the harmonious, orderly, and efficient growth and development of the town;
- (3) Strengthen civic pride and cultural stability through neighborhood conservation;
- (4) Stabilize the economy of the town through the continued use, preservation, and revitalization of its resources;
- (5) Promote the use of resources for the education, pleasure, and welfare of the people of the Town of Tiptonville.
- (6) Provide a review process for the preservation and development of the town's resources. (as added by Ord. #2083, Oct. 2000)

14-402. Preservation commission: composition and terms. The town is authorized to establish a preservation commission to preserve, promote, and develop the town's historical resources and to advise the town on the

designation of preservation districts, landmarks, and landmark sites and to perform such other functions as may be provided by law.

The commission shall consist of five (5) members and which shall consist of a representative of a local patriotic or historical organization; an architect or engineer, if available; a person who is a member of the local planning commission at the time of his/her appointment; and the remainder shall be from the community in general. The position of architect or engineer cannot be filled by a local citizen at the time of adoption.

All members of the commission are appointed by the town and shall serve for designated terms and may be re-appointed. All commission members shall have a demonstrated knowledge of or interest, competence, or expertise in historic preservation, to the extent available in the community. The town should appoint professional members from the primary historic preservation-related disciplines of architecture, history, architectural history, or archaeology or from secondary historic preservation-related disciplines such as urban planning, American studies, American civilization, cultural geography, cultural anthropology, interior design, law, and related fields. The town shall document a "good faith effort" to locate professionals to serve on the commission before appointing lay members. The commission shall also seek the advice, as needed, of professionals not serving on the board. (as added by Ord. #2083, Oct. 2000)

14-403. Powers of the commission. (1) The commission shall conduct or cause to be conducted a continuing study and survey of resources within the Town of Tiptonville.

(2) The commission shall recommend to the town the adoption of ordinances designating preservation districts, landmarks, and landmark sites.

(3) The commission may recommend that the town recognize sub-districts within any preservation district.

(4) The commission shall review applications proposing construction, alteration, demolition, or relocation of any resource within the preservation districts, landmarks, and landmark sites.

(5) The commission shall grant or deny preservation permits, and may grant preservation permits contingent upon the acceptance by the applicant of specified conditions.

(6) The commission does not have jurisdiction over interior arrangements of buildings and structures, except where such change will affect the exterior of the building and structures.

(7) The commission, subject to the requirements of the town, is authorized to apply for, receive, hold and spend funds from private and public sources, in addition to appropriations made by the town for the purpose of carrying out the provisions of this chapter.

(8) The commission is authorized to employ such staff or contract with technical experts or other persons as may be required for the performance of its duties and to obtain the equipment.

(9) The commission is authorized, solely in the performance of its official duties and only at reasonable times, to enter upon private land or water for the examination or survey thereof. No member, employee, or agent of the commission shall enter any private dwelling or structure without the express consent of the owner of record or occupant thereof. (as added by Ord. #2083, Oct. 2000)

14-404. Rules of order (by-laws). To fulfill the purposes of this chapter and carry out the provisions contained therein:

(1) The commission annually shall elect from its membership a chairman and vice-chairman. It shall select a secretary from its membership or its staff. If neither the chairman nor the vice-chairman attends a particular meeting, the remaining members shall select an acting chairman from the members in attendance at such meeting.

(2) The commission shall develop and adopt rules of order (by-laws) which shall govern the conduct of its business, subject to the approval of the town. Such rules of order (by-laws) shall be a matter of public record.

(3) The commission shall develop design review guidelines for determining appropriateness as generally set forth in § 14-407 of this chapter.

(4) The commission shall keep minutes and records of all meetings and proceedings including voting records, attendance, resolutions, findings, determinations, and decisions. All such material shall be a matter of public record.

(5) The commission shall establish its own regular meeting time; however, the first meeting shall be held within thirty (30) days of the adoption of this ordinance and regular meetings shall be scheduled at least once every three (3) months. The chairman or any two (2) members may call a special meeting to consider an urgent matter. (as added by Ord. #2083, Oct. 2000)

14-405. Designation of landmarks, landmark sites, and historic districts. By ordinance, the town may establish landmarks, landmark sites, and preservation districts within the area of its jurisdiction. Such landmarks, landmark sites, or preservation districts shall be designated following the criteria as specified in § 14-401.

(1) The commission shall initiate a continuing and thorough investigation of the archaeological, architectural, cultural, and historic significance of the town's resources. The findings shall be collected in a cohesive format made a matter of public record, and made available for public inspection. The commission shall work toward providing complete documentation for previously designated preservation districts which would include:

(a) A survey of all property within the boundary of the district, with photographs of each building.

(b) A survey which would be in a format consistent with the statewide inventory format of the historic preservation division of the (SHPO).

(2) The commission shall advise the town on the designation of preservation districts, landmarks, or landmark sites and submit or cause to be prepared ordinance to make such designation.

(3) A resource or resources may be nominated for designation upon motion of three members of the commission or by an organization interested in historic preservation or by an owner of the property being nominated. A nomination shall contain information as specified by the commission. The commission must reach a decision on whether to recommend a proposed nomination to the town within six months in the case of a preservation. After six months for a district and two months for a landmark or landmark site if no action has been taken by the commission the nomination proceeds to the planning commission for their recommendation to the board.

(4) The commission shall hold a public hearing on the proposed preservation district, landmark, or landmark site. If the commission votes to recommend to the town the designation of a proposed resources, is shall promptly forward to the planning commission its recommendation, in writing, together with an accompanying file.

(5) The commission's recommendations to the town for designation of a preservation district shall be accompanied by:

(a) A map of the preservation district that clearly delineates the boundaries.

(b) A verbal boundary description and justification.

(c) A written statement of significance for the proposed preservation district.

(6) The town board shall conduct a public hearing, after notice, to discuss the proposed designation and boundaries thereof. A notice of the hearing shall be published in the newspaper published in the town. If a newspaper is not published in the town, then the notice shall be published in a paper published in the county.

(7) Within sixty (60) calendar days after the public hearing held in connection herewith, the town shall adopt the ordinance with such modifications as may be necessary.

(8) Furthermore, the commission shall notify, as soon as is reasonably possible, the appropriate state, county, and municipal agencies of the official designation of all landmarks, landmark sites, and preservation districts. An updated list and map shall be maintained by such agencies and made available to the public. (as added by Ord. #2083, Oct. 2000)

14-406. Preservation permit. No exterior feature of any resource shall be altered, added to, relocated, or demolished until after an application for a certificate of appropriateness of such work has been approved by the

commission. Likewise, no construction which affects a resource shall be undertaken without a preservation permit. Therefore,

(1) The commission shall serve as a review body with the power to approve and deny applications for preservation permits.

(2) In approving and denying applications for preservation permits, the commission shall accomplish the purposes of this chapter.

(3) A preservation permit shall not be required for work deemed by the commission to be ordinary maintenance or repair of any resource.

(4) All decisions of the commission shall be in writing and shall state the findings of the commission, its recommendations, and the reasons therefore.

(5) Expiration of a preservation permit. A preservation permit shall expire six (6) months after its issuance EXCEPT THAT a certificate shall expire if work has not begun within six (6) months of its issuance. When a certificate has expired, an applicant may seek a new certificate.

(6) Resubmitting of applications. Twelve months after denial of an application for a preservation permit, the application may be resubmitted without change. A changed application may be resubmitted at any time. (as added by Ord. #2083, Oct. 2000)

14-407. Criteria for issuance of preservation permits. The commission shall use the Secretary of the Interior's Standards for Rehabilitation, as the basics for design guidelines created for each district or landmark and the following criteria in granting or denying preservation permits:

(1) General factors. (a) Architectural design of existing building, structure, or appurtenance and proposed alteration;

(b) Historical significance of the resource;

(c) Materials composing the resource;

(d) Size of the resource;

(e) The relationship of the above factors to, and their effect upon the immediate surroundings and, if within a preservation district, upon the district as a whole and its architectural and historical character and integrity.

(2) New construction. (a) The following aspects of new construction shall be visually compatible with the buildings and environment with which the new construction is visually related, including but not limited to: the height, the gross volume, the proportion between width and height of the facade(s), the proportions and relationship between doors and windows, the rhythm of solids to voids created by openings in the facade, the materials, the textures, the patterns, the trims, and the design of the roof.

(b) Existing rhythm created by existing building masses and spaces between them shall be preserved.

(c) The landscape plan shall be compatible with the resource, and it shall be visually compatible with the environment with which it is

visually related. Landscaping shall also not prove detrimental to the fabric of a resource, or adjacent public or private improvements like sidewalks and walls.

(d) No specific architectural style shall be required.

(3) Exterior alteration. (a) All exterior alterations to a building, structure, object, site, or landscape feature shall be compatible with the resource itself and other resources with which it is related, as is provided in § 14-408(1) and (2), and the design, over time, of a building, structure, object, or landscape feature shall be considered in applying these standards.

(b) Exterior alterations shall not adversely affect the architectural character or historic quality of a landmark and shall not destroy the significance of landmark sites.

(4) In considering an application for the demolition of a landmark or a resource within a preservation district, the following shall be considered:

(a) The commission shall consider the individual architectural, cultural, and/or historical significance of the resource.

(b) The commission shall consider the importance or contribution of the resource to the architectural character of the district.

(c) The commission shall consider the importance or contribution of the resource to neighboring property values.

(d) The commission shall consider the difficulty or impossibility of reproducing such a resource because of its texture, design, material, or detail.

(e) Following recommendation for approval of demolition, the applicant must seek approval of replacement plans, if any, as set forth in § 14-408(2) prior to receiving a demolition permit and other permits. Replacement plans for this purpose shall include, but shall not be restricted to, project concept, preliminary elevations and site plans, and completed working drawings for at least the foundation plan which will enable the applicant to receive a permit for foundation construction.

(f) Applicants that have received a recommendation for demolition shall be required to receive such demolition permit as well as preservation permit for the new construction. Permits for demolition and construction shall not be issued simultaneously.

(g) When the commission recommends approval of demolition of a resource, a permit shall not be issued until all plans for the site have received approval from all appropriate town boards, commissions, departments, and agencies. (as added by Ord. #2083, Oct. 2000)

14-408. Procedures for issuance of preservation permits. Anyone desiring to take action requiring a preservation permit concerning a resource for which a permit, variance, or other authorization from the town building official is also required, shall make application therefore in the form and manner

required by the applicable code section or ordinance. Any such application shall also be considered an application for a preservation permit and shall include such additional information as may be required by the commission. After receipt of any such application, the town building official shall be assured that the application is proper and complete. No building permit shall be issued by the town building official which affects a resource without a preservation permit. In the event that a building permit need not be obtained for construction, alteration, demolition, or relocation of any resource, a preservation permit is still required before such work can be undertaken. Such application shall be reviewed in accordance with the following procedure:

(1) When any such application is filed, the town building official shall immediately notify the commission chairman, vice-chairman, or staff of the application having been filed.

(2) The chairman or vice-chairman shall set the agenda for the regular meeting date or set a time and date, which shall be not later than thirty (30) days after the filing of the application for a hearing by the commission, and the town building official shall be so informed.

(3) The applicant shall, upon request, have the right to a preliminary hearing by the commission for the purpose of making any changes or adjustments which might be more consistent with the commission's standards.

(4) Not later than eight (8) days before the date set for the said hearing, the town official shall mail notice thereof to the applicant at the address in the application and to all members of the commission.

(5) Notice of the time and place of said hearing shall be given by publication in a newspaper having general circulation in the town at least (number of days to correspond to the newspaper publishing deadlines) days before such hearing and by posting such notice on the bulletin board in the lobby of town hall.

(6) At such hearing, the applicant for a preservation permit shall have the right to present any relevant evidence in support of the application. Likewise, the governing body shall have the right to present any additional relevant evidence in support of the application.

(7) The commission shall have the right to conditional approval.

(8) Either at the meeting or within not more than fifteen (15) days after the hearing on an application, the commission shall act upon it, either approving, denying, or deferring action until the next meeting of the commission, giving consideration to the factors set forth in § 14-408 hereof. Evidence of approval of the application shall be by preservation permit issued by the commission and, whatever its decision, notice in writing shall be given to the applicant and the town building official.

(9) The issuance of a preservation permit shall not relieve an applicant for a building permit, special use permit, variance, or other authorization from compliance with any other requirement or provision of the laws of the town

concerning zoning, construction repair, or demolition. (as added by Ord. #2083, Oct. 2000)

14-409. Economic hardship. No decision of the commission shall cause undue economic hardship. If an applicant request a hearing on economic hardship it shall be conducted after a preservation permit has been denied. (as added by Ord. #2083, Oct. 2000)

14-410. Appeals. The applicant who desires to appeal a decision by the commission shall file an appeal with the circuit court (after the determination of the issue by the commission) in the manner provided by law. (as added by Ord. #2083, Oct. 2000)

14-411. Minimum maintenance requirements. In order to insure the protective maintenance of resources, the exterior features of such properties shall be maintained to meet the requirements of the town's minimum housing code and the town's building code. (as added by Ord. #2083, Oct. 2000)

14-412. Public safety exclusion. None of the provisions of this chapter shall be construed to prevent any action of construction, alteration, or demolition necessary to correct or abate the unsafe or dangerous condition of any resource, or part thereof, where such condition has been declared unsafe or dangerous by the town building official or the fire department and where the proposed actions have been declared necessary by such authorities to correct the said condition, provided, however, that only such work as is necessary to correct the unsafe or dangerous condition may be performed pursuant to this section. In the event any resource designated as a landmark or located within a preservation district, shall be damaged by fire or other calamity to such an extent that it cannot be repaired and restored, it may be removed in conformity with normal permit procedures and applicable laws, provided that:

(1) The town building official concurs with the property owner that the resource cannot be repaired and restored and so notifies the commission in writing.

(2) The preservation commission, if in doubt after receiving such notification from the town building official shall be allowed time to seek outside professional expertise from the State Historic Preservation Office and/or an independent structural engineer before issuing a preservation permit for the demolition. The commission may indicate in writing by letter to the town building official that it will require a time period of up to thirty days for this purpose, and upon such notification to the town building official, this section shall be suspended until the expiration of such a delay period. (as added by Ord. #2083, Oct. 2000)

14-413. Enforcement and penalties. The historic preservation commission shall be enforced by the town building inspector, who shall have the right to enter upon any premises necessary to carry out his duties in this enforcement.

Any person violating any provision of this chapter shall be guilty of a misdemeanor, and upon conviction shall be fined not less than two (\$2.00) nor more than fifty dollars (\$50.00) for each offense. Each day such violation shall continue shall constitute a separate offense. (as added by Ord. #2083, Oct. 2000)

14-414. Appropriations. The town is authorized to make appropriations to the commission necessary for the expenses of the operation of the commission and may make additional amounts available as necessary for the acquisition, restoration, preservation, operation, and management of historic properties. (as added by Ord. #2083, Oct. 2000)

14-415. Disqualification of members by conflict of interest. Because the town may possess few residents with experience in the individual fields of history, architecture, architectural history, archaeology, urban planning, law, or real estate, and in order not to impair such residents from practicing their trade for hire, members of the commission are allowed to contact their services to an applicant for a preservation permit, and, when doing so, must expressly disqualify themselves from the commission during all discussions and voting for that application. In such cases, the town shall, upon the request of the chairman of the commission or the vice-chairman in his stead, appoint a substitute member who is qualified in the same field as the disqualified member, and who will serve for that particular case only. If no qualified resident of the town is able to substitute for the disqualified member, the town may appoint, in this case only, a qualified substitute who is a resident. If any member of the commission must be disqualified due to a conflict of interest on a regular and continuing basis, the chairman or the vice-chairman, in his stead, shall encourage the member to resign his commission seat. Failing this resignation, and, if the commission member continues to enter into conflict of interest situations with the commission, the chairman or vice-chairman of the commission shall encourage the town to replace the member. Likewise, any member of the commission who has an interest in the property in question or in property within three hundred feet of such a property, or who is employed with a firm that has been hired to aid the applicant in any matter whatsoever, or who has any proprietary, tenancy, or personal interest in a matter to be considered by the commission shall be disqualified from participating in the consideration of any request for a preservation permit involving such a property. In such cases, a qualified substitute shall be appointed as provided above. (as added by Ord. #2083, Oct. 2000)