

TOWN OF GEORGETOWN TOWN COUNCIL MEETING AGENDA

Meeting Date: Wednesday, November 13, 2013
Location: Town Hall, 39 The Circle, Georgetown, DE
Time: 6:45 P.M. Public Hearing
7:00 P.M. Regular Meeting

6:45 P.M. Public Hearing

Community Development Block Grant (CDBG) 2014 Funding Request
This presentation will provide an overview of the CDBG program and offer an opportunity for the Town Council to discuss potential projects.

7:00 P.M. Regular Meeting

1. Pledge of Allegiance
2. Invocation
3. Adoption of Agenda
4. Approval of October 23, 2013 Town Council Minutes
5. Proclamation - National American Indian Heritage Month
6. 2014 CDBG Application – Sussex County Community Development Office
 - A. Resolution #2013-7 Fair Federal Housing Law
 - B. Resolution #2013-8 Application for CDBG Funds
7. Layne Christensen Company Appeal of the South Railroad Avenue Well & Treatment Facility Questionnaire Scoring
8. FY13 Audit Results and Financial Statements
9. Presentation - Zoning Code Revisions – Height Restrictions
10. Presentation - Need for Town Hall Renovations
11. FOP Contract Authorization
12. Adoption of the Revised Comprehensive Plan Zoning Map – 16 Mile Brewery
13. 1st Reading of Ordinances
 - A. Ordinance #2013-21 Ice Cream Peddler

14. **2nd Reading & Adoption of Ordinances**
 - A. Ordinance #2013-16 Secret Electronic Recordings of Workplace Conversations
 - B. Ordinance #2013-17 Number of Animals Permitted and Removal of Fecal Matter
 - C. Ordinance #2013-18 Trees
 - D. Ordinance #2013-20 Solid Waste – Scrap Tires

15. **Departmental Reports**
 - A. Gene Dvornick – Town Manager
 - B. Bill Bradley – Director of Public Works

16. **Public Comment**

17. **Adjournment**

The agenda items as listed may not be considered in sequence. This agenda is subject to change to include additional items including executive sessions or the deletion of items including executive sessions, which arise at the time of the meeting. Persons with disabilities requiring special accommodations to attend this meeting should contact the Town Office in writing 72 hours in advance of the meeting, stating their needs in order to have them addressed under the requirements of the Americans with Disabilities Act (ADA).



PROCLAMATION

Presented to the
AMERICAN INDIANS COMMITTEE
In Honor of

NATIONAL AMERICAN INDIAN HERITAGE MONTH

WHEREAS, the history and culture of our great nation have been significantly influenced by American Indians and indigenous peoples; and

WHEREAS, the contributions of American Indians have enhanced the freedom, prosperity, and greatness of America today; and

WHEREAS, their customs and traditions are respected and celebrated as part of a rich legacy throughout the United States; and

WHEREAS, Native American Awareness Week began in 1976 and recognition was expanded by Congress and approved by President George Bush in August 1990, designating the month of November as National American Indian Heritage Month; and

WHEREAS, in honor of National American Indian, community celebrations as well as numerous cultural, artistic, educational and historical activities have been planned; and

THEREFORE, I, Michael R Wyatt, by virtue of the authority vested in me as Mayor of the Town of Georgetown, do hereby proclaim November as the National American Indian Heritage Month, in the Town of Georgetown, Delaware, and urge all our citizens to observe this month with appropriate programs, ceremonies, and activities.

In Witness Whereof, I have hereunto set my hand and caused the seal of this Town to be affixed this 13th day of November, 2013.

Michael R Wyatt, Mayor



**Town of Georgetown
Resolution 2013-7**

WHEREAS, the Town of Georgetown recognizes the importance of fair housing for the citizens of Georgetown; and

WHEREAS, the Town of Georgetown supports the goals of the Federal Fair Housing Law,

NOW THEREFORE, BE IT RESOLVED, that the Town of Georgetown heartily encourages all parties involved in the renting, selling or financing of housing in the Town of Georgetown to insure that no person shall, on the grounds of race, color, national origin or sex, be discriminated against or denied a fair and equal opportunity to housing; and

BE IT FURTHER RESOLVED, that the Town of Georgetown, when acting as administrator of a Community Block Grant, is hereby authorized to take such actions as deemed necessary to affirmatively further fair housing in connection with the said Community Development Block Grant.

ADOPTED by a majority vote of the Town Council of Georgetown this _____ day of _____, _____.

Michael R Wyatt, Mayor
Town of Georgetown

Steve Hartstein, Secretary
Town of Georgetown



**Town of Georgetown
Resolution 2013-8**

ENDORING A PROJECT TO BE SUBMITTED TO THE DELAWARE STATE HOUSING AUTHORITY FOR FUNDING FROM THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT AND AUTHORIZING TODD LAWSON, SUSSEX COUNTY ADMINISTRATOR, TO SUBMIT APPLICATION

WHEREAS, the Town of Georgetown resolves to apply for Community Development funds from the Delaware State Housing Authority in accordance with appropriate regulations governing Community Development Block Grants, State of Delaware Program for Block Grants as contained in (Sections 570.488-499 24 CFR U.S. Department of Housing and Urban Development); and,

WHEREAS, the Town of Georgetown has met the application requirements of (Attachment E-Delaware Community Development Block Grant Program Policies and Procedures) Citizen Participation requirements; and,

WHEREAS, Sussex County plans on accomplishing code enforcement/infrastructure/rehabilitation projects with CDBG funds; and,

WHEREAS, the Town of Georgetown hereby agrees to allow Sussex County to accomplish the projects in targeted areas of the Town of Georgetown; and,

WHEREAS, the Town of Georgetown and Sussex County are in agreement with this activity.

NOW THEREFORE, BE IT RESOLVED by the Town of Georgetown and Sussex County that they endorse and grant permission for the following activity:

APPLICATION: Rehabilitation/Infrastructure/Demolition

The total CDBG grant request is \$_____.

Michael R Wyatt, Mayor

Bill West

Sue H Barlow

Linda J Dennis

Steve Hartstein, Secretary

I DO HEREBY CERTIFY THAT THE FOREGOING TITLE OF RESOLUTION NO. 2013-8, ADOPTED BY THE TOWN OF GEORGETOWN, IS THE SAME TITLE OF RESOLUTION NO. _____ ADOPTED BY THE COUNTY COUNCIL OF SUSSEX COUNTY ON THE ____ DAY OF _____, _____.

Robin A. Griffith
Clerk of the County Council

DRAFT

Item #5



WATER · MINERAL · ENERGY

November 6, 2013

Davis Bowen & Friedel, Inc.
Mr. Erik Ratzlaff
23 North Walnut Street
Milford, DE 19963

Re: Town of Georgetown Responsibility Questionnaire
Layne Christensen Company Appeal

Dear Mr. Ratzlaff:

Layne Christensen Company is in receipt of your responsibility disqualification letter dated November 4th, 2013 regarding the S. Railroad Avenue Well & Treatment Facility Contract B. Layne is appealing the decision of your findings regarding Layne Christensen's qualifications and responsibility.

Layne Christensen Company is an international company with over sixty locations and affiliates in the United States, Canada, Mexico and other countries that has been in business for over 130 years. As is to be expected of a company the size of Layne, there are a number of insured and non-insured claims and lawsuits pending at any given point in time.

The NJ project in question, as answered in question 21 "Disputes"; was settled with a non-disclosure agreement and as previously stated the claim filed reached an amicable out-of-court settlement between the parties to which Layne received the balance of the monies due to Layne for work performed.

Layne would like to request additional information regarding points lost for wages and safety. We hope this additional information shows Layne's responsibility to perform work and provide a responsible and competitive proposal to the Town of Georgetown.

We will await the decision of the Town after the Council meeting on November 13th, 2013 and hope the Town finds this information of assistance in reconsidering Layne as a responsibly bidder.

Should you have questions or require any additional information; please contact our office and we would be pleased to be of service.

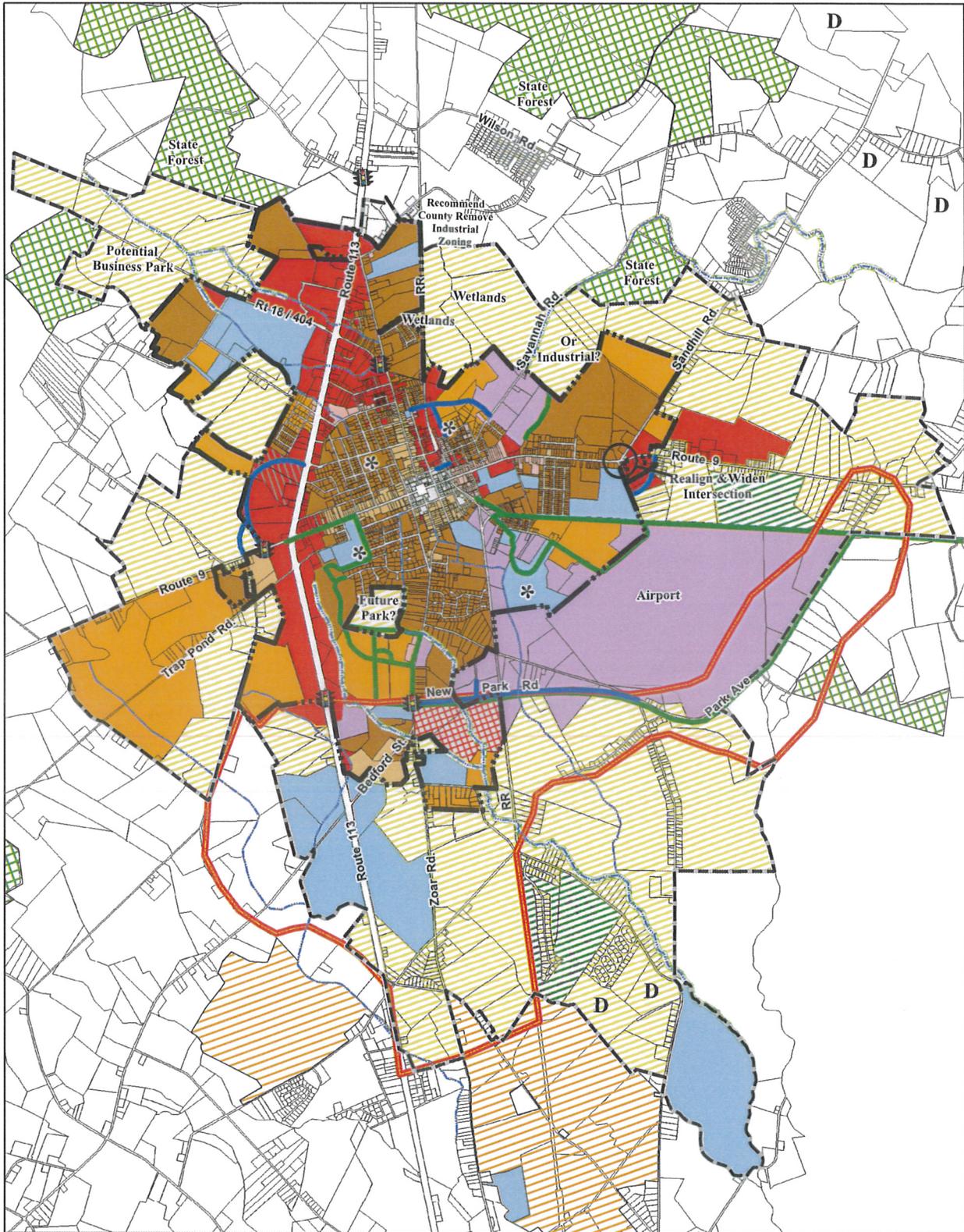
Best Regards,

Layne Christensen Company

A handwritten signature in cursive script, appearing to read "Stephanie Keffer".

Stephanie Keffer
Project Manager/Estimator

HEAVY CIVIL



Town of Georgetown Comprehensive Plan

- Education and Community Facilities
- Existing Golf Courses & Private Recreation Site
- Commercial
- Commercial / Medium - High Density Residential
- Limited Commercial/Airport Approach
- Downtown Revitalization-Historic Preservation Emphasis
- Light Industrial & Airport
- Neighborhood Business
- Future Low Density Residential (Promote Cluster Option; More Intensive Zoning May be Considered in Future Depending upon Road and Sewage Improvements and Possible Use of Transfer of Development Rights)
- Medium Density Residential / Office
- Medium Density Residential
- Medium High Density Residential (with some Neighborhood business allowed)
- Area of Proposed Cooperative Sub-Regional Planning



- Major Proposed Developments in Annexation Area
- Future Traffic Signals
- State-Designated Agricultural District (Temporary limits on number of new homes eligible for Permanent Preservation)
- Permanently Preserved Lands (Includes State Forests and Land Preserved by Easements)
- Potential New 2 Lane Roads
- Proposed Trails
- 2007 Town Boundaries
- Future Potential Annexation Boundary
- Ditches (approximate locations)
- Conservation Buffer Along Waterways
- Permanently Preserved Lands under Delaware Land-Water Conservation Trust Fund.





ORDINANCE NO. 2013-21

AN ORDINANCE TO AMEND THE CODE OF THE TOWN OF GEORGETOWN, CHAPTER 119, ENTITLED, ICE CREAM PEDDLERS

THE TOWN COUNCIL OF THE TOWN OF GEORGETOWN IN COUNCIL MET AND HEREBY ORDAINS:

Section 1. Chapter §119, Ice Cream Peddlers, of the Code of the Town of Georgetown is hereby amended by adding:

§ 119-3. Application for license; contents.

- A. An application for license under this chapter shall be made by the applicant, in writing, verified under oath, on forms approved by the Town Manager.
- B. The application shall be filed in the office of the Planning and Zoning Department and shall set forth the following information:
 - 1) The name and permanent home address of the applicant at the time of the application.
 - 2) The name and address of the firm represented.
 - 3) All permanent home addresses of the applicant within the past three years.
 - 4) Proof of **current and satisfactory compliance** with the following:
 - (a) Delaware State Business License.
 - (b) Delaware Department of Public Health Food Establishment Permit.
 - (c) **State of Delaware and Federal Criminal Background Check, copies of which shall be provided by the applicant, at his/her own expense, along with the application.**
 - 5) A description of the vehicle to be used, if a motor vehicle is to be used, including:
 - (a) The name and address of the owner of the vehicle as registered with the Delaware Division of Motor Vehicles.
 - (b) A description of the vehicle, giving the name of the manufacturer, serial number, motor number and the name of the person and any other insignia appearing thereon.
 - (c) The date of purchase of the vehicle and the name and address of the person from whom acquired.

- (d) If the applicant is not the owner, the interest of the applicant in said vehicle.
- (e) If any person, other than the applicant, has any interest whatsoever in the vehicle, the name and address and interest of each such person.
- 6) Whether or not the applicant has been convicted of a crime or disorderly persons offense or violation of any municipal ordinance and the nature of each offense, if any, for which convicted.
- 7) The names and addresses of persons or companies from whom the products to be sold, disposed of or offered for sale under this chapter have been or are to be purchased for the purpose of resale in the applicant's business.
- C. If the applicant is an employee or representative of any person, there shall be appended to the application a letter from the employer or principal authorizing the applicant to act as his representative.

Section 2. This Ordinance shall become effective following its adoption by a majority vote of all members elected to the Town Council.

BE IT ENACTED by the Town Council of the Town of Georgetown, Delaware on the _____ day of _____ A.D., 2013.

Michael R Wyatt, Mayor

Steve Hartstein, Secretary

Reading: November 13, 2013
Reading: December 11, 2013
Adoption: December 11, 2013



ORDINANCE NO. 2013-16

**AN ORDINANCE TO AMEND THE CODE TO THE TOWN OF
GEORGETOWN, CHAPTER 29, PERSONNEL**

THE TOWN COUNCIL OF THE TOWN OF GEORGETOWN IN COUNCIL MET
AND HEREBY ORDAINS:

Section 1. Chapter §29, Personnel, of the Code of the Town of Georgetown is hereby amended as follows:

§ 29-44.1. Secret Electronic Recordings of Workplace Conversations.

Employees shall not intentionally secretly record electronically any conversations with co-workers, supervisors, or management, or Members of Town council of the Town of Georgetown, except as part of an investigative matter or to conduct an investigation authorized by a legitimate law enforcement agency. This prohibition is in effect whether or not the employee is a participant in the conversation, and whether or not such conversations take place at Town of Georgetown facilities or elsewhere.

Section 2. This Ordinance shall become effective following its adoption by a majority vote of all members elected to the Town Council.

BE IT ENACTED by the Town Council of the Town of Georgetown, Delaware on the _____ day of _____ A.D., 2013.

Michael R Wyatt, Mayor

Steve Hartstein, Secretary

Reading: October 23, 2013
Reading: November 13, 2013
Adoption: November 13, 2013



ORDINANCE NO. 2013-17

AN ORDINANCE TO AMEND THE CODE TO THE TOWN OF
GEORGETOWN, CHAPTER 52, ANIMALS

THE TOWN COUNCIL OF THE TOWN OF GEORGETOWN IN COUNCIL MET
AND HEREBY ORDAINS:

Section 1. Chapter §52, Animals, of the Code of the Town of Georgetown is hereby amended as follows:

ARTICLE V
Misc. Provisions

§ 52-22. Restriction on the number of animals allowed.

- a) **It shall be unlawful for any person to possess, own, harbor, or care for more than (6) within the town except that a litter of puppies, kittens, or other young animals which may be kept for a period of time not exceeding five (5) months from birth. The intent of this section is to restrict the number of animals to six (6) within any household or other location unless otherwise exempted. The code enforcement officer or police officer is authorized to remove animals to reduce the number to that which is authorized by this ordinance.**
- b) **Pet fish are excluded from this subsection.**
- c) **This section shall not apply to any establishment where animals are kept in a licensed pet shop for commercial sale or boarding by a licensed facility or at licensed zoos or accredited educational institutions.**
- d) **Any person convicted of a violation of this section shall pay a mandatory minimum fine of not less than \$250.00 for the first offense, not less than \$500.00 for the second offense, and not less than \$750.00 for each subsequent offense.**

§ 52-23. and removal of animal fecal matter.

- a) **Every person possessing, owning, harboring, or caring for one or more animals shall take all reasonable and necessary measures to prevent accumulation of fecal matter of the same in the area in which such animals are customarily kept or are customarily allowed to stay or remain. No such person shall allow fecal matter to accumulate so as to create obnoxious or offensive odors, or to potentially create a health hazard. Disposal of fecal matter must be accomplished in a sanitary manner and must be placed in an airtight, sealed bag or container if placed in a trash receptacle.**
- b) **Before being charged with a violation of subsection (a), any such person shall be given notice of such violation either verbally or in writing. Any person who fails or refuses to remove the fecal matter within 12 hours of such verbal or written notice shall be deemed in violation of this section. The passage of each 24 hours after original notice and failure to properly dispose of fecal matter will constitute another violation of this section. Violations within six months after original notice will represent a violation of this section and shall not require another notice to establish a violation of this section.**

- c) **Any person possessing, owning, harboring, or caring for any animal shall immediately remove, in a sanitary manner in an airtight bag or other closed container, any fecal matter deposited by such animal upon any street, sidewalk, park, or upon any other public property, or upon any private property not owned by the person in control of said animal.**
- d) **Any person convicted of a violation of subsection (a) of this section shall pay a mandatory minimum fine of not less than \$100.00 for the first offense, not less than \$200.00 for the second offense, and not less than \$300.00 for each subsequent offense. Any person convicted of a violation of subsection (c) of this section shall pay a mandatory minimum fine of not less than \$50.00 for the first offense, not less than \$100.00 for the second offense, and not less than \$150.00 for each subsequent offense.**

Section 2. This Ordinance shall become effective following its adoption by a majority vote of all members elected to the Town Council.

BE IT ENACTED by the Town Council of the Town of Georgetown, Delaware on the _____ day of _____ A.D., 2013.

Michael R Wyatt, Mayor

Steve Hartstein, Secretary

Reading: October 23, 2013
Reading: November 13, 2013
Adoption: November 13, 2013



ORDINANCE NO. 2013-18

AN ORDINANCE TO ADD A CHAPTER TO THE CODE OF THE TOWN OF GEORGETOWN, ENTITLED CHAPTER 208, TREES

THE TOWN COUNCIL OF THE TOWN OF GEORGETOWN IN COUNCIL MET AND HEREBY ORDAINS:

Whereas, the Mayor and Town Council wish to promote the public health, safety and welfare of the citizens of the Town of Georgetown, and

Whereas, trees are recognized as enhancing the economic, environmental, and aesthetic qualities of the Town, and

Whereas, Delaware currently has 14 recognized Tree Cities USA Communities, 13 municipalities and Dover Air Force Base, and

Whereas, becoming a Tree City USA is tied in with the Delaware Forest Service strategic plan, and

Whereas, a majority of the Urban & Community Forestry grant recipients have been Tree Cities, and

Whereas, opportunities for future funding may be enhanced by gaining recognition as a Tree City USA Community,

Section 1. Chapter §208, Trees, of the Code of the Town of Georgetown is hereby amended as follows:

§208-1. Definitions.

§208-2. Creation and Establishment of Town Tree Board.

§208-3. Duties and Responsibilities.

§208-4. Street Tree Species to be Planted.

§208-5. Spacing.

§208-6. Distance from Curb and Sidewalk.

§208-7. Distance from Street Corners and Fireplugs.

§208-8. Utilities.

§208-9. Public Tree Care.

§208-10. Tree Topping.

§208-11. Pruning, Corner Clearance.

§208-12. Dead or Diseased Tree Removal on Private Property.

§208-13. Removal of Stumps.

§208-14. Interference with Town Tree Board.

§208-15. Arborists' License and Bond.

§208-16. Review by Town Council.

§208-17. Penalty.

§208-1. Definitions.

Street Trees - are herein defined as trees, shrubs, bushes, and all other woody vegetation on land lying between property lines on either side of all streets, avenues or ways with the Town.

Park Trees - are herein defined as trees, shrubs, bushes and all other woody vegetation in public parks having individual names, and all areas owned by the Town, or to which the public has free access as a park.

§208-2. Creation and Establishment of Town Tree Board.

There is hereby created and established a Town Tree Board for the Town of Georgetown, Delaware, which shall consist of the Town Manager, Director of Public Works, and a Delaware State Forester.

§208-3. Duties and Responsibilities.

It shall be the responsibility of the Board to study, investigate, council and develop and/or update annually, and administer a written plan for the care, preservation, pruning, planting, replanting, removal or disposition of trees and shrubs in parks, along streets and in other public areas. Such plan will be presented annually to the Town Council and upon their acceptance and approval shall constitute the official comprehensive Town Tree Plan for the Town of Georgetown, Delaware. The Board, when requested by the Town Council, shall consider, investigate, make findings, report and recommend upon any special matter of question coming with the scope of its work.

§208-4. Street Tree Species to be Planted.

The following list constitutes the recommended Street Tree species for Georgetown, Delaware. No species other than those included in this list may be planted as Street Trees without written permission of the Town Tree Board.

- **Small Trees: Apricot, Crabapple, Golden Rain Tree, Hawthorne, Bradford Pear, Redbud, Soapberry, Japanese Lilac Tree, Flowering Peach, Purpleleaf Plum, Serviceberry**
- **Medium Trees: Green Ash, Hackberry, Honeylocust (thornless), Linden or Basswood, Red Mulberry (fruitless, male), English Oak, Red Oak, Japanese Pagodatree, Pecan, River Birch, Osageorange (male, thornless), Persimmon, White Poplar, Sassafras**
- **Large Trees: Kentucky Coffeetree, Silver Maple, Sugar Maple, Bur Oak, Sycamore, London Sycamore, Cottonwood (cottonless, male)**

§208-5. Spacing.

The spacing of Street Trees will be in accordance with the three species size classes listed in §208-4 of this ordinance, and no trees may be planted closer together than the following: Small Trees, 30 feet; Medium Trees, 40 feet; and Large Trees, 50 feet; except in special plantings designed or approved by a landscape architect.

§208-6. Distance from Curb and Sidewalk.

The distance trees may be planted from curbs or curb lines and sidewalks will be in accordance with the three species size classes listed in §208-4 of this ordinance, and no trees may be planted closer to any curb or sidewalk than the following: Small Trees, 2 feet; Medium Trees, 3 feet; and Large Trees, 4 feet.

§208-7. Distance from Street Corners and Fireplugs.

No Street Tree shall be planted closer than 35 feet of any street corner, measured from the point of nearest intersecting curbs or curb lines. No Street Tree shall be planted closer than 10 feet of any fireplug.

§208-8. Utilities.

No Street Trees other than those species listed as Small Trees in §208-4 of this ordinance may be planted under or within 10 lateral feet of any overhead utility wire, or over or within 5 lateral feet of any underground water line, sewer line, transmission line or other utility.

§208-9. Public Tree Care.

The Town shall have the right to plant, prune, maintain and remove trees, plants and shrubs within the lines of all streets, alleys, avenues, lanes, squares and public grounds, as may be necessary to insure public safety or preserve or enhance the symmetry and beauty of such public grounds.

The Town Tree Board may remove or cause or order to be removed, any tree or part thereof which is in an unsafe condition or which by reason of its nature is injurious to sewers, electric power lines, gas lines, water lines, or other public improvements, or is affected with any injurious fungus, insect or other pest. This Section does not prohibit the planting of Street Trees by adjacent property owners providing that the selection of said trees is in accordance with §208-4 through §208-8 of this ordinance.

§208-10. Tree Topping.

It shall be unlawful as a normal practice 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 larger than three inches in diameter within the tree's crown to such a degree so as to remove the normal canopy and disfigure the tree. 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 exempted from this ordinance at the determination of the Town Tree Board.

§208-11. Pruning, Corner Clearance.

Every owner of any tree overhanging any street or right-of-way within the Town shall prune the branches in accordance with Chapter 165, Article I, §165-6.1. Said owners shall remove all dead, diseased or dangerous trees, or broken or decayed limbs which constitute a menace to the safety of the public. The Town shall have the right to prune any tree or shrub on private property when it interferes with the proper spread of light along the street from a streetlight or interferes with visibility of any traffic control device or sign.

§208-12. Dead or Diseased Tree Removal on Private Property.

The Town shall have the right to cause the removal of any 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 which constitutes a potential threat to other trees within the Town. The Town Tree Board will notify in writing the owners of such trees. Removal shall be done by said owners at their own expense within sixty days after the date of service of notice. In the event of failure of the owners to comply with such provisions, the Town shall have the authority to remove such trees and charge the cost of removal on the owner's property tax notice.

§208-13. Removal of Stumps.

All stumps of Street and Park Trees shall be removed below the surface of the ground so that the top of the stump shall not project above the surface of the ground.

§208-14. Interference with Town Tree Board.

It shall be unlawful for any person to prevent, delay or interfere with the Town Tree Board, or any of its agents, while engaging in and about the planting, cultivating, mulching, pruning, spraying, or removing of any Street Trees, Park Trees, or trees on private grounds, as authorized in this ordinance.

§208-15. Arborists' License and Bond.

It shall be unlawful for any person or firm to engage in the business or occupation of pruning, treating, or removing Street or Park Trees within the Town without first applying for and procuring a Town of Georgetown business license. Before any license shall be issued, each applicant shall be fully insured as specified and shall be completely covered by State Workers' Compensation during the life of this license. The applicant shall have liability insurance in the amount of \$1,000,000.00 for each occurrence and shall name the Town as an additional insured on its policy for the work being performed in the Town of Georgetown.

§208-16. Review by Town Council.

The Town Council shall have the right to review the conduct, acts and decisions of the Town Tree Board. Any person may appeal from any ruling or order of the Town Tree Board to the Town Council who may hear the matter and make a final decision.

§208-17. Penalty.

Any person violating any provision of this ordinance shall be, upon conviction or plea of guilty, subject to a fine not to exceed \$500.00.

Section 2. This Ordinance shall become effective following its adoption by a majority vote of all members elected to the Town Council.

BE IT ENACTED by the Town Council of the Town of Georgetown, Delaware on the _____ day of _____ A.D., 2013.

Michael R Wyatt, Mayor

Steve Hartstein, Secretary

Reading: October 23, 2013
Reading: November 13, 2013
Adoption: November 13, 2013

DRAFT



ORDINANCE NO. 2013-20

**AN ORDINANCE TO AMEND THE CODE OF THE TOWN OF
GEORGETOWN, CHAPTER 185, ENTITLED, SOLID WASTE**

THE TOWN COUNCIL OF THE TOWN OF GEORGETOWN IN COUNCIL MET AND
HEREBY ORDAINS:

Section 1. Chapter §185, Solid Waste, of the Code of the Town of Georgetown is hereby amended by adding:

ARTICLE I
GARBAGE AND YARD WASTE

Section 2. Chapter §185, Solid Waste, of the Code of the Town of Georgetown is hereby amended by adding:

ARTICLE II

§185- 9. Definitions

§185-10. Scrap Tire Management – General.

§185-11. Accumulation.

§185-12. Reporting.

§185-13. Enforcement.

§185-14. Violations and penalties.

§185-15. Civil remedies and abatement nuisance.

§185-16. Severability.

§185- 9. Definitions

Dump - means to throw, discard, place, deposit, discharge, bury, burn, or dispose of a substance.

Person - Any individual, natural person, joint-stock company, partnership, voluntary association, society, club, firm, company, corporation, business trust, organization or any other group acting as a unit, or the manager, lessee, agent, servant, partner, member, director, officer or employee of any of them, including an executor, administrator, trustee, receiver or other representative appointed according to law.

Retail tire dealer - means a person actively engaged in the business of selling new and/or used replacement tires.

Scrap tire - means an unshredded tire that is no longer suitable for its original intended purpose because of wear, damage, or defect.

Scrap tire generator - means any person who generates scrap tires. Generators may include, but are not limited to, retail tire dealers, retreaders, scrap tire processors, automobile dealers, private company vehicle maintenance shops, garages, and service stations.

§185-10. Scrap Tire Management – General.

A. The owner or occupant of any premises shall be responsible for the sanitary handling and disposal of all scrap tires on the premises used or occupied by such person.

B. It shall be unlawful to cause or allow the dumping of scrap tires at any place within the Town limits of the Town of Georgetown including, but not limited to:

1. In or on any public highway, road, street, alley, thoroughfare, or right-of-way including any portion of the right of way thereof;

2. On any public or private property within the town limits of the Town of Georgetown

§185-11. Accumulation.

A. It shall be unlawful for any person in a residential zoning district to accumulate more than five (5) scrap tires on or around property, which they own or occupy.

B. A retail tire dealer may hold up to 100 scrap tires per garage bay in storage, up to a maximum of 500 scrap tires.

C. Scrap tires must be stored in covered or enclosed areas, or under an impermeable cover to prevent the accumulation of water.

§185-12. Reporting.

Retail tire dealers shall keep records regarding the disposal of scrap tires generated at each of the retail tire dealer's business locations. This report shall include the name, address, telephone number and certificated motor carrier identification number of the waste tire transporter and the number of whole waste tires transported from the retail tire dealers business location(s) by the waste tire transporter(s). These records must be kept on site at each business location and made available for inspection by the Town Manager or a representative upon request within five (5) days. All records shall be retained for a period of not less than three (3) years.

§185-13. Enforcement.

A. The Town Manager, and/or the Town of Georgetown Code Enforcement Officer shall have the authority and responsibility for enforcing the provisions of this chapter.

B. Any agent of any of the departments authorized to enforce this chapter shall be empowered to enter any property, upon reasonable cause, at reasonable or necessary times in order to properly inspect for violations of this chapter, subject to the condition that to allow entry onto private property for inspection, the alleged violation of this ordinance must be visible from a public road or right of way, or by a court order.

C. It is unlawful for any person, whether owner, occupant, or party in control of the building, structure, or premises, to refuse the entry of an enforcement agent or to interfere with the lawful enforcement of this chapter.

D. In the event any enforcement agent determines that there has been a violation of this chapter or has grounds to believe that a violation has occurred, a notice of violation shall be provided to the owner, occupant, or person or entity in control of the building, structure, or premises where the violation or alleged violation exists. Said notice of violation shall:

1. Be in writing;

2. Include a description of the building, structure or premises sufficient for identification;

3. Include a statement of the violation(s);

4. Include an order to correct allowing a reasonable time to bring the premises into compliance with this chapter;

5. Be personally delivered by the Code Enforcement Officer or sent by certified or first-class mail addressed to the last known address; and

6. If notice sent by certified or first class mail is returned showing that the letter was not delivered, a copy thereof shall be posted in a conspicuous place in or about the building, structure, or premises affected by such notice.

§185-14. Violations and penalties.

Any person(s), firm, or corporation found by a court of competent jurisdiction to be in violation of any portion of this chapter shall be subject to one or more of the following penalties:

A. A fine of fifty dollars (\$50.00) per violation, with each unlawfully disposed scrap tire being considered a separate violation. Further, each day the violation continues shall constitute a separate offense; and/or

B. The court may order the publication of the names and photographs of persons found by a court of competent jurisdiction to be in violation of this chapter; and/or

C. The court may order the person to repair or restore property damaged, or pay damages resulting from such violations, or perform public service related to the repair or restoration of property damaged by the violation; and/or

D. In case of a tire dump, the property owner, contractor, developer, builder or other person responsible for the property shall cause the property to be cleaned and to come into full compliance with this chapter. The Town of Georgetown shall not be responsible for any costs of cleanup or remediation.

§185-15. Civil remedies and abatement nuisance.

In the event that any person violates any provision of this ordinance, the Town of Georgetown may, in addition to other remedies, institute an action for injunction, declaratory relief, or other appropriate action or proceeding to prevent such unlawful acts or to correct or abate

any such violation. In addition, the Town of Georgetown may immediately revoke or suspend any and all business, building, development or any and all other permits issued by the Town of Georgetown related to the property or properties involved with the violation until such time that compliance is met, or until the ruling of a court of competent jurisdiction is obtained, at which time respective permits shall be reissued.

§185-16. Severability.

Should any sentence, section, subsection or provision of this chapter or application of a provision of this chapter be declared invalid or unconstitutional by any court of competent jurisdiction, such declaration shall not affect the validity of the chapter as a whole or any part thereof that is not specifically declared to be invalid or unconstitutional.

Section 3. This Ordinance shall become effective following its adoption by a majority vote of all members elected to the Town Council.

BE IT ENACTED by the Town Council of the Town of Georgetown, Delaware on the _____ day of _____ A.D., 2013.

Michael R Wyatt, Mayor

Steve Hartstein, Secretary

Reading: October 23, 2013
Reading: November 13, 2013
Adoption: November 13, 2013