

**TOWN OF GEORGETOWN  
TOWN COUNCIL MEETING AGENDA**

**Meeting Date:** Wednesday, October 23, 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**

Comprehensive Plan Amendment: Revision to Transportation

**7:00 P.M. Regular Meeting**

1. Pledge of Allegiance
2. Invocation
3. Adoption of Agenda
4. Approval of October 9, 2013 Town Council Minutes
5. Primeros Pasos Update
6. State of Delaware – Family Court Expansion Update
7. ~~ShoreScan Solutions Presentation~~ (deleted 10/21/13 as information determined necessary for deletion.)
- 7A. Resolution #2013-6 Notice of Public Hearing to Authorize Borrowing Up To \$1,700,000 for 37 & 39 The Circle (added 10/21/13 as information determined necessary for inclusion.)
8. 1<sup>st</sup> Reading 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 (added 10/21/13 as information determined necessary for inclusion.)
9. Departmental Reports
  - A. Gene Dvornick – Town Manager
10. Public Comment
11. 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).

**Preliminary Land Use Service (PLUS)  
Comprehensive Plan Amendments and Municipal Ordinances**

Delaware State Planning Coordination  
122 William Penn Street • Dover, DE 19901 • Phone: 302-739-3090 • Fax: 302-739-6958

<b>Name of Municipality: Town of Georgetown</b>	
<b>Address:</b> 39 The Circle Georgetown, DE 19947	<b>Contact Person: Gene Dvornick</b>
	<b>Phone Number: (302)856-7391</b>
	<b>Fax Number: (302)856-6348</b>
	<b>E-mail Address:</b> gdvornick@georgetowndel.com

**Date of Most Recently Certified Comprehensive Plan:** January 13, 2010

**Application Type:**

**Comprehensive Plan Amendment:**     X    

**Ordinance:** \_\_\_\_\_

**Other:** \_\_\_\_\_

<b>Comprehensive Plan Amendment or Municipal Ordinance prepared by:</b>	
<b>Address:</b> 39 The Circle Georgetown, DE 19947	<b>Contact Person: Jocelyn Godwin</b>
	<b>Phone Number: (302)856-7391</b>
	<b>Fax Number: (302)856-6348</b>
	<b>E-mail Address: jgodwin@georgetowndel.com</b>

<b>Maps Prepared by: N/A</b>	
<b>Address:</b>	<b>Contact Person:</b>
	<b>Phone Number:</b>
	<b>Fax Number:</b>
	<b>E-mail Address:</b>

**Preliminary Land Use Service (PLUS)  
Comprehensive Plan Amendments and Municipal Ordinances**

Delaware State Planning Coordination  
122 William Penn Street • Dover, DE 19901 • Phone: 302-739-3090 • Fax: 302-739-6958

**Please describe the submission:**

According to Section 2.9.12.1, Paragraph 3 from DelDOT's Standards and Regulations for Subdivision Streets and State Highway Access,

"DelDOT recognizes that the standards in this manual will not be appropriate to all areas. A local government, as part of its adopted comprehensive plan, may determine that acceptance of a lower LOS (D, E or F) for some portion of the day is necessary and appropriate for the pattern of development they seek to create. If a proposed development is located in, or affects, such an area, DelDOT will consider the local government's standards to the extent that adherence to them does not result in substandard LOS or unacceptable operational condition outside that area."

The Town of Georgetown would like to add the following to the Transportation section of the Comprehensive Plan, on Page 48, following 'Route 113 Improvements' as a new subsection:

***Impact Of Development On Level Of Service (LOS)***

*The Town of Georgetown recognizes the impact of commercial development at major intersections: US Route 9 (County Seat Highway) and US Route 113 (DuPont Boulevard) and State Route 18/404 (Seashore Highway) and US Route 113 (DuPont Boulevard).*

*Accordingly, a reduced level of service at these intersections (D, E or F) is acceptable for limited portions of the day (morning & afternoon rush hour) provided there are interior connector roads within the commercial development to permit travel within the development versus having to travel along the impacted roadways.*

*Level of Service (LOS) is a qualitative measure describing operational conditions within a traffic stream, based on service measures such as speed and travel time, freedom to maneuver, traffic interruptions, comfort and convenience. Levels range from A (most desirable to the traveler) to F (least desirable to the traveler). For the purposes of long-range planning, Level of Service is generally measured in terms of volume-to-capacity ratios that are usually obtained from a travel demand model such as that used by DelDOT.*

*As funding becomes available, the limited access, on-alignment improvements should then be made.*

to determine the peak 15-minute interval and the peak hour and then compute an overall intersection peak hour factor (PHF). Generally existing PHFs shall be applied to future conditions as well. Where the traffic counts are agreed to be a poor indicator of future PHF's, one of the following three PHFs shall be selected according to the total intersection volume in the future conditions. For a total intersection volume of 500vph or less, use 0.80. For a total intersection volume of 500 vph to 1,000 vph, use 0.88. For a total intersection volume over 1,000 vph, use 0.92. ~~where the counts are very low and significant growth is expected, a PHF of 0.92 should be assumed, except that for intersections where the total intersection volume is between 501 and 1,000 vph, a PHF of 0.88 should be used and where the total intersection volume is 500 vph or less, a PHF of 0.80 should be used. The TIS shall include calculate the peak hour factors for existing conditions. If no increases in volumes are projected, the TIS shall use these observed peak hour factors for future conditions as well. All peak hour factors must be calculated by lane group.~~

7. Lane Utilization Factors - Except as directed by DelDOT, all signalized intersection analyses shall use the HCM default lane utilization factors.
8. Percentage of Heavy Vehicles - The percentage of heavy vehicles should be determined from traffic counts ~~and should be calculated separately for each turning movement.~~ For unsignalized intersections, the percentage of heavy vehicles should be calculated separately for each turning movement. For signalized intersections, the percentage of heavy vehicles should be calculated separately for each lane group. Where the traffic counts are agreed to be a poor indicator of future heavy vehicle percentages, e.g. where the counts are very low and significant growth is expected, 7% and 9% should be assumed for two-lane highways and multi-lane highways, respectively, in rural areas; 6% and 8% should be assumed for two-lane highways and multi-lane highways, respectively, in all

other areas; and 3% should be assumed for intersections. To account for traffic from specific uses that generate unusually heavy vehicle volumes, e.g. industrial facilities, DelDOT may specify higher percentages. ~~Any modification of default values in the HCS software shall be listed in the report within the appropriate section(s) along with the reasoning for the modification.~~

9. Base Saturation Flow Rates - North of the Chesapeake and Delaware (C&D) Canal, base saturation flow rates for signalized intersections should be maintained at the HCS default value of 1,900 pchppl. South of the C&D Canal, base saturation flow rates for signalized intersections should be reduced to 1,750 pchppl unless data is available or provided to indicate that a higher value is appropriate. A procedure for collecting such data is provided in Chapter 16, Appendix H of the 2000 HCM. The Applicant's engineer is encouraged to collect data where little or none is available. ~~For specific facilities or circumstances where DelDOT determines that use of software other than HCS is more appropriate, it may authorize the use of that software at its sole discretion.~~

## 2.9.12 LOS STANDARDS

### 2.9.12.1 General

LOS standards shall be applied based on the location of the proposed development.

#### 1. Development in Developed, Developing or Planned Development Areas

If a proposed development is located within a developed, developing or planned development area, all intersections, roundabouts, roadway sections, weaving sections and ramps analyzed will be subject to the LOS standards for those areas even if the intersection, roundabout, roadway section, weaving section or ramp is in a rural area..

#### 2. Development in Rural Areas

If a proposed development is located in a rural area, all intersections, roundabouts, roadway sections, weaving sections and ramps shall be subject to the LOS standards for such areas even if the intersection, roundabout, roadway section, weaving section or ramp is inside a developed, developing or planned development area. Levels of service shall, in most cases, correspond directly to those in the HCM unless specified to the contrary.

### **3. Local Government Standards**

DelDOT recognizes that the standards in this manual will not be appropriate to all areas. A local government, as part of its adopted comprehensive plan, may determine that acceptance of a lower LOS (D, E or F) for some portion of the day is necessary and appropriate for the pattern of development they seek to create. If a proposed development is located in, or affects, such an area, DelDOT will consider the local government's standards to the extent that adherence to them does not result in substandard LOS or unacceptable operational condition outside that area.

### **4. Development in Areas Designated for Re-Development**

If a proposed development is located in an area, or on a land parcel or parcels of land, designated as a "re-development" site by either state or local government, with local government concurrence DelDOT may accept the existing Level of Service provided that the proposed development makes sufficient improvements, to DelDOT's satisfaction, to retain the existing measured Level-of-Service.

#### **2.9.12.2 Uninterrupted-flow Standards**

LOS for uninterrupted flow locations will be measured by density and volume to capacity ratio (V/C) and conform to the values shown in Exhibits 20-2, 21-2, and 23-3 of the HCM.

When a development is in a developed, developing, or planned development area, an increase in the uninterrupted-flow V/C ratio to the low point of LOS D (approaching LOS E) will be allowed

When a development is in a rural area, an increase in the uninterrupted-flow V/C ratio to the low point of LOS C (approaching LOS D) will be allowed in the FWP condition.

In analyzing facilities for which HCS does not calculate V/C ratios, e.g. multi-lane highways and freeways, separate calculation is required as determined by DelDOT.

#### **2.9.12.3 Signalized Intersection Standards**

All signalized intersections shall be analyzed using the following criteria for evaluating impacts and needed improvements:

1. Sites in developed, developing or planned development areas: For each intersection, deterioration up to 55 seconds (the bottom of LOS D) will be allowed for the FWP Condition.
2. Sites in rural areas: For each intersection, deterioration up to the 35 seconds (bottom of LOS C) will be allowed for the FWP condition.
3. Regardless of LOS, DelDOT shall require turning lane improvements to accommodate 95<sup>th</sup> percentile queue lengths.
4. The analysis shall document that the impacts of queuing from adjacent intersections or traffic restrictions have been addressed.
5. The analysis shall document the interaction of conflicting movements at adjacent entrances.
6. The analysis shall note changes made in signal timing and phasing (i.e. protected, permitted, etc). **The Applicant shall obtain approval from DelDOT prior to incorporating phasing changes in its analysis.**
7. Minimum green times must be equal to or greater than minimum pedestrian crossing times on each approach unless specifically authorized by DelDOT.
8. If there is a traffic signal within 2,640 feet of the site, an arterial analysis as in the HCM Chapter 15 may be required.
9. In determining the signal timing for FWOP it shall be assumed that the existing traffic signal hardware will still be in use. Any



**Montchanin Development Group, Ltd.**

911 Tatnall Street  
Wilmington, DE 19801

August 31, 2012

Mr. Eugene S. Dvornick, Jr.  
Town Manager  
Town of Georgetown  
Town Hall – 39 The Circle  
Georgetown, DE 19947

RE: Georgetown Crossing – Routes 113 & 9.

Dear Gene,

The saga of Georgetown Crossing continues..... I know you haven't heard from me for awhile but we're still pursuing approvals for our site on Route 113. We had some partnership issues which have since been resolved and we are continuing our efforts to secure the blessings of DelDOT for ingress/egress. We met with DelDOT this week to review the scope of a revised TIS. As you know, the intersection of Routes 113 and 9 operates at a level unacceptable to DelDOT. Upon further discussions with their planning department, they agreed that a number of development projects now in the planning stages are unlikely to happen in the foreseeable future. They have agreed that we can ignore those projects in an updated TIS. Unfortunately, even removing those projects from our calculations does not produce projected operational levels acceptable to DelDOT.

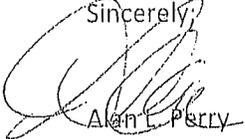
It was DelDOT's observation that the principal problem is weekday morning traffic turning east on Route 9 from Southbound 113. Unfortunately, we can't do much to ameliorate this problem. Our proposed occupancy doesn't add to this problem as the majority of our proposed tenancy does not create morning rush hour traffic as retailers typically don't open until 9:00 or 10:00, and 75% of the traffic generated by the contemplated convenience store is "pass-by" traffic which has very little impact on total trips.

We have looked at possible mitigation of our added traffic, but the only things that could make a discernible difference would be prohibitively expensive and frankly, only a band-aid. As you know, we're working on a plan for five pad sites. We've already agreed to build an interior road to State specifications to ultimately provide a service road when connected to the Isaacs Farm and properties south. Spending an additional \$1,000,000.00+ on a short term fix for the intersection cannot be absorbed by this project. When we ultimately develop the back portion of the site we may be in a position to make a contribution to off-

site improvements, but even that development won't sustain a million dollar contribution or even close to it. The cost of improvements to this intersection will have to be shared by many development projects up and down Route 113 as well as DelDOT itself. No one development can absorb the costs of meaningful mitigation at this location.

Although we have not received any specific recommendations or direction from DelDOT, in our meeting this week they said that to move forward they would need some additional commitments from Georgetown. Apparently the letter you wrote last October 18<sup>th</sup> is not sufficient for their purposes. I'm not sure why this is just coming to light now, but we were told that the letter would need to state that not only was the Town willing to accept a degraded level of service, but that the letter needed a commitment that the Town would amend its comprehensive plan to reflect that. I'm not sure I completely understood the motivation for this but Bill Brockbrough said that if you had questions, he would welcome your call to discuss and provide guidance on what he was looking for.

Therefore, I would like to impose upon you to reach out to Bill and hopefully provide what DelDOT needs to proceed with approvals. I will give you a call next week to discuss this request. In the meantime, have a great holiday weekend.

Sincerely,  
  
Alan L. Perry



## RESOLUTION 2013-6

### **A RESOLUTION PROPOSING TO BORROW UP TO \$1,700,000 FOR CAPITAL COSTS ASSOCIATED WITH IMPROVEMENTS TO 37 & 39 THE CIRCLE AND CALLING FOR A PUBLIC HEARING ON THE PROPOSED BORROWING.**

WHEREAS, pursuant to Section 5.9, Chapter 276, Volume 65, Laws of Delaware as amended, the Charter of the Town of Georgetown, the Town Council of the Town is authorized to borrow money and issue bonds or certificates of indebtedness to secure the repayment thereof on the faith and credit of the Town of Georgetown to provide for certain municipal projects and improvements, after holding a public hearing thereon:

NOW THEREFORE, BE IT RESOLVED by the Town Council of the Town of Georgetown as follows:

1. The Town Council of the Town of Georgetown hereby gives notice to the electors of the Town that the Town proposes to borrow an amount of money, not to exceed \$1,700,000, to provide funds for capital improvements to 37 & 39 The Circle.
2. The proposed borrowing shall be secured by the full faith and credit of the Town.
3. The Bonds are proposed to be repaid by the general and proprietary revenues of the Town.
4. The Town Council will hold a public hearing on the proposed borrowing on November 13, 2013 at 6:45 pm at the Town Hall, 39 The Circle, Georgetown, Delaware.

AND BE IT FURTHER RESOLVED that the Town Manager is hereby authorized to cause a notice of the public hearing to be printed in a newspaper having general circulation in the Town at least one week before the time set for the public hearing.

**ADOPTED** by the Town Council of the Town of Georgetown, Delaware on the 23rd day of October, A.D., 2013.

---

Michael R Wyatt  
Mayor

---

Steve M Hartstein  
Secretary of the Council



**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 or supervisors or management of the Town of Georgetown, except to conduct an investigation performed 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:

**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



**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