

**Town Code
for**

**The Town of
Talking
Rock
Georgia**

ADOPTING ORDINANCE

AN ORDINANCE OF THE TOWN OF TALKING ROCK, GEORGIA, ADOPTING AND ENACTING A NEW CODE FOR TALKING ROCK, GEORGIA; ESTABLISHING THE SAME; PROVIDING FOR THE REPEAL OF CERTAIN ORDINANCES NOT INCLUDED THEREIN, EXCEPT AS HEREIN EXPRESSLY PROVIDED; PROVIDING FOR THE MANNER OF AMENDING SUCH CODE; PROVIDING WHEN THIS ORDINANCE SHALL BECOME EFFECTIVE; PROVIDING CERTAIN PENALTIES; AND FOR OTHER PURPOSES.

The mayor and council of the Town of Talking Rock, Georgia hereby ordains:

Section 1. The document entitled "Code of the Town of Talking Rock, Georgia." a copy of which accompanies this ordinance and is incorporated herein and made a part hereof, is hereby adopted and shall be treated and considered as a new and original comprehensive ordinance.

Section 2. All ordinances and resolutions of a general and permanent nature of this town enacted on final passage on or before March 20, 1996, and not in the code or recognized and continued in force by reference therein are hereby repealed from and after the effective date of this ordinance, except as hereinafter provided.

Section 3. The repeal provided for in section 2 hereof shall not affect any offense or act committed or done or any penalty or forfeiture incurred or any contract or right established or accruing before the effective date of this ordinance; nor shall this repeal affect any ordinance or resolution of the town promising or guaranteeing the payment of money by or to the town, or authorizing the issuance of any bonds of the town, or any evidence of the town's indebtedness, or any contract or obligation assumed by the town; nor shall this repeal affect any rights or franchise granted by any ordinance or resolution of the town to any person, firm or corporation; nor shall this repeal affect any ordinance or resolution dedicating, naming, establishing, locating, relocating, opening, paving, widening, vacating, etc., any street or public way in the town; nor shall this repeal affect the present annual appropriation of the town; nor shall this repeal affect any ordinance or resolution levying or imposing charges, fees or taxes now due or accrued; nor shall this repeal affect any zoning ordinance of the town or amendments thereto nor shall this repeal be construed to revive any ordinance or resolution or part thereof that has been repealed by a subsequent ordinance or resolution which is repealed by this ordinance.

Section 4. The provisions appearing in this code, so far as they are same as provisions of ordinances and resolutions excising at the time of the effective date of this code, are intended, and shall be considered as continuations thereof and not as new enactment's.

Section 5. Any and all additions or amendments to the code, when passed in such form as to indicate the intention of the mayor and council to make the same a part thereof, shall be deemed to be incorporated into the code so that reference to "The Code of the town of Talking Rock, Georgia," shall be understood and intended to include such additions and amendments.

Section 6. A copy of the code shall be kept on file in the office of the town clerk, and preserved in loose-leaf form, or in such other form as the town clerk may consider most expedient. It shall be the express duty of the town clerk or someone authorized by the town clerk, to insert in their designated places all amendments, ordinances or resolutions

which indicate the intention of the town governing authority to make those provisions a part of the code, when those provisions have been reprinted in page form, and to extract from the code all provisions which may be from time to time repealed. A copy of the code shall be available for all persons desiring to examine it and shall be considered the official code of the town.

Section 7. As pages of the code are replaced because the matter contained on them shall have been repealed, amended or otherwise shall have been superseded or rendered obsolete or inoperative, the town clerk shall retain copies of the pages of the code so superseded, rendered obsolete or otherwise rendered inoperative in a file so that the former provisions of the code may be readily available and easily found. The purpose of this section is to permit anyone desiring to do so to ascertain the precise status of any section of the code as of any given date.

Section 8. In case of the amendment of any section of the code for which a penalty is not provided, the general penalty as provided in the town charter or the code shall apply to the section as amended; or in case the amendment contains provisions for which a penalty, other than the aforementioned general penalty, is provided in another section in the same chapter, the penalty so provided in the other section shall be held to relate to the section so amended, unless the penalty is specifically repealed therein.

Section 9. It shall be unlawful for any person, firm or corporation to change or amend by additions or deletions, any part or portion of the code, or to insert or delete pages or portions thereof, or to alter or tamper with the code in any manner whatsoever which may cause the law of the town to be misrepresented thereby.

Section 10. All ordinances or parts of ordinances in conflict herewith are, to the extent of any conflict, hereby repealed.

Section 11. This ordinance shall be in force and take effect on

Adopted this _____ day of _____, 200__.

Mayor

Town Clerk

TITLE 1
General Provision

Chapter 1 Use of Code and Penalties

CHAPTER 1
Use of Code and Penalties

- § 1-1-1 How code designated and cited
- § 1-1-2 Rules of construction
- § 1-1-3 Catchlines of sections
- § 1-1-4 Severability of parts of code
- § 1-1-5 General penalty; continuing violations
- § 1-1-6 Amendments to code; effect of new ordinances; amendment language
- § 1-1-7 Altering code

TITLE 2
General Government

- Chapter 1 Mayor and Council
- Chapter 2 Elections
- Chapter 3 Recorder's Court
- Chapter 4 Administration
- Chapter 5 Finances and Taxation

CHAPTER 2
Mayor and Council

ARTICLE A
General Provisions

- § 2-1-1 Compensation
- §§ 2-1-2 through 2-1-10 Reserved

ARTICLE B
Meetings

- § 2-1-11 Regular Meetings
- § 2-1-12 Adjourned Meetings
- § 2-1-13 Order of business
- § 2-1-14 Rules of procedure
- § 2-1-15 Previous Questions
- § 2-1-16 Motions having precedence
- § 2-1-17 Motion to Adjourn

CHAPTER 2

Elections

State Law Reference: Georgia Municipal Elections, O.C.G.A., Title 21, Ch. 3

- § 2-2-1 Election officials
- § 2-2-2 Voter registration deadline
- § 2-2-3 Notice of candidacy; filing dates
- § 2-2-4 Qualification fees
- § 2-2-5 Polling place

CHAPTER 3

Recorder's Court

(Reserved)

CHAPTER 4

Administration

- § 2-4-1 Town clerk; duties
- § 2-4-2 Town attorney; duties
- § 2-4-3 Departments established
- § 2-4-4 Holidays
- § 2-4-5 Records Management
- § 2-4-6 Annual Leave Policy

CHAPTER 5

Finance and Taxation

ARTICLE A

General Provisions

- § 2-5-1 Fiscal year
- § 2-5-2 Annual budget; appropriations
- § 2-5-3 Purchasing
- §§ 2-5-4 through 2-5-10 Reserved

ARTICLE B

Property Taxes

- § 2-5-11 Tax Rate
- § 2-5-12 Tax due and payable
- § 2-5-13 Collection of delinquent taxes, fees or other revenue; interest
- § 2-5-14 through 2-5-20 Reserved

ARTICLE C

Occupation, Professional and Business Taxes

- § 2-5-21 Definitions
- § 2-5-22 Levy of tax
- § 2-5-23 Separate businesses
- § 2-5-24 Registration required
- § 2-5-25 Payment of tax
- § 2-5-26 Issuance of tax certificates
- § 2-5-27 Certificate to be displayed
- § 2-5-28 Change of Address
- § 2-5-29 Change of Ownership; transfers
- § 2-5-30 Special provisions for insurance companies
- § 2-5-31 Financial institutions tax
- § 2-5-32 Enforcement
- § 2-5-33 Penalties
- § 2-5-34 Criminal penalties; license revoked

TITLE 3
Public Safety

- Chapter 1 Law Enforcement
- Chapter 2 Fire Prevention and Protection
- Chapter 3 Historic Preservation
- Chapter 4 Flood Prevention
- Chapter 5 Abatement of Nuisance

CHAPTER 1
Law Enforcement

- § 3-1-1 Composition of police department
- § 3-1-2 Responsibilities

CHAPTER 2
Fire Prevention and Protection

ARTICLE A
Fire Department

- § 3-2-1 Fire Chief and Members
- § 3-2-2 Interfering with equipment
- § 3-2-3 Enforcement
- § 3-2-4 Tampering with alarm system
- §§ 3-2-5 through 3-2-20 Reserved

ARTICLE B
Prevention Code

- § 3-2-21 Fire prevention code adoption

§ 3-2-22 Fire limits defined

CHAPTER 3

Historic Preservation

- § 3-3-1 Purpose
- § 3-3-2 Creation of a Historic Preservation Commission
- § 3-3-3 Designation of Historic Districts and Landmarks
- § 3-3-4 Application to Preservation Commission for Certificate of Appropriateness
- § 3-3-6 Maintenance of Historic Property
- § 3-3-7 Penalty Provisions
- § 3-3-8 Severability
- § 3-3-9 Repealer
- § 3-3-10 Effective Date
- § 3-3-11 Definitions

CHAPTER 4

Flood Prevention

- § 3-4-1 Statutory Authorization
- § 3-4-2 Findings of Fact
- § 3-4-3 Statement of Purpose
- § 3-4-4 Objective
- § 3-4-5 Lands to which this ordinance applies
- § 3-4-6 Establishment of Development
- § 3-4-7 Compliance
- § 3-4-8 Abrogation and Greater Restrictions
- § 3-4-9 Interpretation
- § 3-4-10 Warning and Disclaimer of Liability
- § 3-4-11 Penalties for Violation
- § 3-4-12 Administrator
- § 3-4-13 Permit Procedures
- § 3-4-14 Duties and Responsibilities of the Administrator
- § 3-4-15 General Standards for Flood Hazard Reductions
- § 3-4-16 Specific Standards for Flood Hazard Reductions
- § 3-4-17 Standards for Subdivision Proposals
- § 3-4-18 Variance Procedures
- § 3-4-19 Definitions under this Article
- § 3-4-20 Severability

CHAPTER 5

Abatement of Nuisances

- § 3-5-1 Definitions for use in Chapter 5
- § 3-5-2 Finding of Need; Abatement Process

- § 3-5-3 Determination by Public Officer that dwelling, building, or structure is unfit or vacant, dilapidated, and being used in connection with the commission of drug crimes
- § 3-5-4 Powers of public officers in regard to unfit buildings or structures
- § 3-5-5 Service of complaints or orders upon parties in interest and owners of unfit building or structures
- § 3-5-6 Authority to use revenues, grants and donations to repair, close, or demolish unfit buildings or structures

TITLE 4

Comprehensive Zoning

4-1

In General

- § 4-1-1 Title
- § 4-1-2 Authority for Enactment
- § 4-1-3 Reserved
- § 4-1-4 Purpose
- § 4-1-5 Penalty; Remedies
- § 4-1-6 Definitions
- § 4-1-7 Interpretation and Application
- § 4-1-8 Zoning Affects all Land and Buildings
- § 4-1-9 Every Use Must be Upon a Lot
- § 4-1-10 Only One Principal Building per Lot
- § 4-1-11 Open Space Not to be Encroached Upon
- § 4-1-12 Required Open Space may not be Used by Another Building
- § 4-1-13 Reduction of Yards or Lot Area
- § 4-1-14 Encroachment on Public Rights-of-Way
- § 4-1-15 Location of Accessory Buildings or Uses on Residential Lots
- § 4-1-16 Accessory Buildings or Uses on Nonresidential Lots
- § 4-1-17 Recreation Vehicle, Travel Trailer, or Camper
- § 4-1-18 Portable Structures
- § 4-1-19 Every Lot Shall Abut a Street
- § 4-1-20 Lots with Multiple Frontage
- § 4-1-21 Screening Required
- § 4-1-22 Side and Rear Yards Not Required Next to Railroad
- § 4-1-23 Substandard Lots of Record
- § 4-1-24 Intersection Visibility and Corner Setback
- § 4-1-25 Permitted Modification of Setback Requirement
- § 4-1-26 Zoning to Apply When Lot is Divided by District Boundary Line
- § 4-1-27 Height Limitations of Walls and Fences
- § 4-1-28 Screening of Service Areas Within One Hundred Feet of Public Street
- § 4-1-29 Required Buffers in C-1, C-2, M, and M-1 Districts
- § 4-1-30 Structures Permitted Above the Height Limit

- § 4-1-31 Permitted Encroachment of Yards and Setbacks
- § 4-1-32 Modification of Side Yard Requirements
- § 4-1-33 Uses Prohibited
- § 4-1-34 Special Building Setbacks
- § 4-1-35 Swimming Pools (Semiprivate and Commercial)
- § 4-1-36 Swimming Pool (Residential)
- § 4-1-37 Zoning of Annexed Areas
- § 4-1-38 Mechanically Emptied Refuse Containers
- § 4-1-39 Standards for Satellite Receiving Dish Antennae
- § 4-1-40 Bed and Breakfast Homestay Operation
- § 4-1-41 Home Occupations
- § 4-1-42 Group Development Projects

4-2

Nonconformances

- § 4-2-1 Nonconforming Lots
- § 4-2-2 Nonconforming Open Uses of Land
- § 4-2-3 Nonconforming Uses of Structure
- § 4-2-4 Reconstruction of Nonconforming structures
- § 4-2-5 Changes in Zoning

4-3

Districts

- § 4-3-1 Establishment of Districts
- § 4-3-2 Zoning Map
- § 4-3-3 Interpretation of District Boundaries, Zoning Map and References
- § 4-3-4 Historic District, Conditional Uses
- § 4-3-5 Historic District Boundaries

4-4

Permitted Uses

- § 4-4-1 Schedule of Permitted Uses

4-5

Administration

- § 4-5-1 Zoning Administrator Appointed; Duties
- § 4-5-2 Building Permit Required
- § 4-5-3 Application for Building Permit
- § 4-5-4 Sign Permits

4-6

Amendments and Rezoning

- § 4-6-1 Alternative Methods; Preliminary Review Required
- § 4-6-2 Application for Amendment
- § 4-6-3 Signature of Applicant Required
- § 4-6-4 Application for Text Amendment
- § 4-6-5 Applications for Map amendment
- § 4-6-6 Public Hearing and Notification
- § 4-6-7 Notice to Interested Parties
- § 4-6-8 Rezoning Policies and Procedures
- § 4-6-9 Policies and Procedures for Town Planning Commission Initiated Rezoning Activities
- § 4-6-10 Policies and Procedures for Citizen/ Property Owner Initiated Rezoning Activities

4-7

Development Standards

Division I

Generally

- § 4-7-1 Specifications
- § 4-7-2 Permitted Uses
- § 4-7-3 Density Standards
- § 4-7-4 Common Areas
- § 4-7-5 Minimum Design and Development Criteria
- § 4-7-6 Procedure for Rezoning
- § 4-7-7 Review Criteria
- § 4-7-8 Identification on Official Zoning Map
- § 4-7-9 Permitted Uses
- § 4-7-10 Density Standards
- § 4-7-11 Common Areas
- § 4-7-12 Minimum Design and Development Criteria
- § 4-7-13 Procedure for Rezoning
- § 4-7-14 Review Criteria
- § 4-7-15 Identification on Official Zoning Map

4-8

Manufactured Housing Subdivisions and Recreational Vehicle Parks

- § 4-8-1 Purpose of MH Zone (One-Family Manufactured Housing Residential District)
- § 4-8-2 Regulations and Uses Applicable to MH Zone
- § 4-8-3 Recreation Vehicle Parks
- § 4-8-4 General Requirement for Recreation Vehicle Park
- § 4-8-5 Improvements Required for Recreation Vehicle Park

4-9

Sign Regulations

- § 4-9-1 Compliance Required
- § 4-9-2 Findings
- § 4-9-3 Purpose and Intent
- § 4-9-4 Definitions
- § 4-9-5 Permit Required
- § 4-9-6 Same - Application Form
- § 4-9-7 Same - Drawings; Specifications
- § 4-9-8 Same - Expiration
- § 4-9-9 Same - Fees
- § 4-9-10 Public Liability Insurance; Occupational and Contractor's Licenses Required
- § 4-9-11 Signs not Requiring a Permit
- § 4-9-12 Signs and Devices Prohibited
- § 4-9-13 Interference with Traffic Safety Prohibited
- § 4-9-14 Locations Prohibited
- § 4-9-15 Illumination
- § 4-9-16 Misleading and Nuisance Advertising on Signs Prohibited
- § 4-9-17 Standards for Off-Site Signs
- § 4-9-18 Nonconforming Signs
- § 4-9-19 Removal of Nonconforming Signs
- § 4-9-20 Standard for On-Site Ground, Marquee, Swinging, or Projecting Wall, and Wall Signs
- § 4-9-21 Political Signs
- § 4-9-22 Maintenance and Appearance of Signs
- § 4-9-23 Labels Required on Signs
- § 4-9-24 Variances
- § 4-9-25 Termination or Revocation of Permit
- § 4-9-26 Remedies

4-10

Certificate of Occupancy

- § 4-10-1 Required
- § 4-10-2 Issuance
- § 4-10-3 Denial

4-11

Talking Rock Board of Zoning Appeals

- § 4-11-1 Created
- § 4-11-2 Membership and Appointments
- § 4-11-3 Term of Office
- § 4-11-4 Rules and Procedures
- § 4-11-5 Administrative Assistance
- § 4-11-6 Who May Appeal
- § 4-11-7 Legal Proceedings Stayed
- § 4-11-8 Presentation of Evidence
- § 4-11-9 Extent of Board of Appeals' Power

- § 4-11-10 Notice of Hearing
- § 4-11-11 Newspaper Notice; Appearances; Time Limit
- § 4-11-12 Appeals from Decisions of the Zoning Administrator
- § 4-11-13 Request for a Variance
- § 4-11-14 Forms for Appeal; Fee

5-1

Subdivisions

5-1

In General

§ 5-1-1 Short Title

§ 5-1-2 Purpose and Intent

§ 5-1-3 Ordinances Requiring Highest Standard to Govern

§ 5-1-4 Definitions

5-2

Plats

- § 5-2-1 Platting Authority
- § 5-2-2 Recording and Approval Required
- § 5-2-3 Opening and Improving Public Streets
- § 5-2-4 Compliance with Regulations Required
- § 5-2-5 Erection of Buildings
- § 5-2-6 Pre-application Review
- § 5-2-7 Application for Preliminary Plat Approval
- § 5-2-8 Review of Preliminary Plat
- § 5-2-9 Scale
- § 5-2-10 Sheet Size
- § 5-2-11 Ground Elevations
- § 5-2-12 Information to be Provided on Preliminary Plat
- § 5-2-13 Certificate of Tentative Approval
- § 5-2-14 Application for Final Plat Approval
- § 5-2-15 Review of Final Plat
- § 5-2-16 Recording of Final Plat
- § 5-2-17 Specifications Required in Addition to Those on Preliminary Plat

5-3

Alternate Method of Approval for Subdivisions on Existing Streets

- § 5-3-1 Purpose of this Article
- § 5-3-2 Application for Plat Approval
- § 5-3-3 Review of Plat
- § 5-3-4 Recording of Plat
- § 5-3-5 Street Improvements

5-4

General Design Requirements

- § 5-4-1 Suitability of Land
- § 5-4-2 Name
- § 5-4-3 Access
- § 5-4-4 Large-Scale Developments
- § 5-4-5 Conformance with Street and Traffic Plan
- § 5-4-6 Street Layouts to Comply with Planning Standards

5-5

General Requirements for Streets and Other Rights-of-Way

- § 5-5-1 Continuation of Existing Streets
- § 5-5-2 Street Names
- § 5-5-3 Street Jogs
- § 5-5-4 Cul-de-sacs
- § 5-5-5 Alleys
- § 5-5-6 Reserve Strips
- § 5-5-7 Easements
- § 5-5-8 Street Right-of-Way Widths
- § 5-5-9 Street Pavement Widths
- § 5-5-10 Street Grades
- § 5-5-11 Street Intersections
- § 5-5-12 Curblines Radius

5-6

Design Standards for Blocks and Lots

- § 5-6-1 Block Lengths and Widths
- § 5-6-2 Lot Sizes
- § 5-6-3 Lot Lines
- § 5-6-4 Building Lines
- § 5-6-5 Lots Abutting Public Streets
- § 5-6-6 Double and Reverse Frontage Lots

5-7

Required Improvements

- § 5-7-1 Improvements to Bear Seal of Registered Professional Engineer
- § 5-7-2 Constructions of Improvements
- § 5-7-3 Improvements Installed by Subdivider
- § 5-7-4 Improvements to be Installed by the Town

5-8

Private Road Development

- § 5-8-1 Exemption
- § 5-8-2 Requirements for Exemption

6-1

Soil Erosion and Sedimentation Control Ordinance

- § 6-1-1 Ordinance Explanation
- § 6-1-2 Definitions
- § 6-1-3 Exemptions
- § 6-1-4 Minimum Requirements for Erosion and Sedimentation Control Using Best Management Practices
- § 6-1-5 Application/Permit Process
- § 6-1-6 Inspection and Enforcement
- § 6-1-7 Penalties and Incentives
- § 6-1-8 Education and Certification
- § 6-1-9 Administrative
- §6-1-10 Effectivity, Validity and Liability

Title 7 Adult Entertainment Establishments

- Sec. 7-1-1 Purpose.
- Sec. 7-1-2. Definitions.
- Sec. 7-1-3. License required.
- Sec. 7-1-4. Admission of minors unlawful.
- Sec. 7-1-5. Sales to minors unlawful.
- Sec. 7-1-6. Certain activities prohibited.
- Sec. 7-1-7. Distance requirements for location.
- Sec. 7-1-8. Adult entertainment establishments' employees.
- Sec. 7-1-9. Licensing and licenses.
- Sec. 7-1-10. Notice of intent to engage in business.
- Sec. 7-1-11. License fees, penalty for late payment.
- Sec. 7-1-12. General qualifications of applicant.
- Sec. 7-1-13. Licenses—investigation; report.
- Sec. 7-1-14. Citizenship and residence requirements.
- Sec. 7-1-15. Initial consideration of application.
- Sec. 7-1-16. License not transferable. Right to take in additional partners or shareholders restricted.
- Sec. 7-1-17. Issuance to persons with prior convictions.
- Sec. 7-1-18. Additional standards for issuance, or renewal of license.
- Sec. 7-1-19. Town official, spouse and children prohibited from interest in license.
- Sec. 7-1-20. License to be obtained within two weeks of approval of application.
- Sec. 7-1-21. Causes for mandatory denial of license.
- Sec. 7-1-22. Completion of proposed licensed premises.

- Sec. 7-1-23. Time limit for commencement of business in licensed establishment; forfeiture for nonuse.
- Sec. 7-1-24. Annual renewal required.
- Sec. 7-1-25. Suspension, revocation and probation of license.
- Sec. 7-1-26. Removal of signs after revocation or during suspension
- Sec. 7-1-27. False information in applications for license or work permits.
- Sec. 7-1-28. Certain provisions applying to erotic dance and entertainment establishments.
- Sec. 7-1-29. Violations.
- Sec. 7-1-30. Zones where establishment permitted.
- Sec. 7-1-31. Provisions relating to premises.
- Sec. 7-1-32. License and Name of licensee and license number to be displayed.
- Sec. 7-1-33. Premises to be lighted.
- Sec. 7-1-34. Unlawful operation declared nuisance.
- Sec. 7-1-35. Severability and conflict.
- Sec. 7-1-36. Effective Date.

TITLE 1

General Provisions

Chapter 1 Use of Code and Penalties

CHAPTER 1 Use of

Code and Penalties

- § 1-1-1 How code designated and cited.
- §1-1-2 Rules of construction.
- § 1-1-3 Catchlines of sections.
- §1-1-4 Severability of parts of code.
- § 1-1-5 General penalty; continuing violations.
- §1-1-6 Amendments to code; effect of new ordinances;
amendment language.
- §1-1-7 Altering code.

Sec. 1-1-1 How code designated and cited.

The ordinances embraced in the following chapters and sections shall constitute and be designated "Code of the Town of Talking Rock, Georgia," and may be so cited. (ord. of 3-26-1996)

Sec. 1-1-2 Rules of construction.

In the construction of this code and of all ordinances, the following rules shall be observed, unless such construction would be inconsistent with the manifest intent of the mayor and council:

- (1) City. The words "the city" or "this city" shall be construed as if the words "of Talking Rock" followed and shall imply to the official name of the Town of Talking Rock, Georgia.
- (2) Computation of time. When a number of days is prescribed for the exercise of any privilege, or the discharge of any duty, only the first or last day shall be counted; and if the last day shall fall on Saturday or Sunday, the party having that privilege or duty shall have through the following Monday to exercise that privilege or to discharge such duty.
- (3) Council. The word "council" shall mean the Council of the Town of Talking Rock.
- (4) County. The words "the county" or "this county" shall mean the County of Pickens.
- (5) Gender. A word importing the masculine gender only shall extend and be applied to females and to firms, partnerships and corporations as well as to males.
- (6) Interpretation. In the interpretation and application any provision of this code, it shall be held to be the minimum requirements adopted for the promotion of the public health, safety, comfort, convenience and general welfare. Where any provision of this code imposes greater restrictions upon the subject matter than the general provision imposed by this code, the provisions imposing the greater restriction or regulation shall be deemed to be controlling.
- (7) Joint authority. All words giving a joint authority to three (3) or more persons or officers shall be construed as giving that authority to a majority of those persons or officers.
- (8) Keeper and proprietor. The words "keeper" and "proprietor" shall mean and include persons, firms, associations, corporations, clubs and copartnerships whether acting by themselves or as a servant, agent or employee.

(9) Limits or corporation. The words "limits" or corporation," shall mean the corporate limits (legal boundary) of the town.

(I) Mayor. Whenever the word "mayor" is used it shall mean the Mayor of the Town of Talking Rock.

(II) Mayor pro tem. A member of town council appointed by the mayor to act in an officially authorized manner for and on behalf of the mayor.

(12) Month. The word "month" shall mean a calendar month.

(13) Municipality. Whenever the word "municipality" appears in this code, it shall mean the Town of Talking Rock, Georgia.

(14) Name of officer. Whenever the name of an officer is given, it shall be construed as though the words "of the Town of Talking Rock" were added.

(15) Nontechnical and technical words. Words and phrases shall be construed according to the common and approved usage of the language,; but technical words and phrases and any others as may have acquired a peculiar and appropriate meaning in law shall be construed and understood according to that meaning.

(16) Number. A word importing the singular number only may extend and be applied to several persons and things as well as to one (1) person or thing.

(17) Oath. The word "oath: includes affirmation. When an oath is required or authorized by law, an affirmation in lieu thereof may be taken. An affirmation has the same force and effect as an oath.

(18) Or. and. "Or" may be read "and" and "and" may be read "or" if the sense requires it.

(19) Owner. The word "owner," applied to a building or land, shall include any part owner, joint owner, tenant in common, tenant in partnership or joint tenant of the whole or of a part of such building or land.

(20) Person. The word "person" shall extend and be applied to associations, firms, partnerships and bodies politic and corporate as well as to individuals.

(21) Personal property. "Personal property" includes every species of property except real property, as herein defined.

(22) Preceding, following. The words "preceding*" and "following" mean next before and next after, respectively.

(23) Property. "Property" includes real, personal and mixed estates and interests.

(24) Public place shall mean any place including, but not limited to, buildings or conveyances to which the public has, or is permitted to have access, including restaurants, soda fountains, hotel dining rooms, lobbies and corridors of hotels, and any highway street, lane, park or place of public resort or amusement.

(25) Real property. "Real property" shall include lands, tenements and improvements.

(26) Sidewalk. The word "sidewalk" shall mean any portion of a street between the curb line and the adjacent property line, intended for the use of pedestrians, excluding parkways.

(27) Signature or subscription. "Signature" or "subscription" include a mark when the person cannot write.

(28) State. The words "the state" or "this state" shall be construed to mean the State of Georgia.

(29) Street. The word "street" shall be construed to embrace streets, avenues, boulevards, roads, public alleys, lanes, viaducts and all other public highways in the town.

(30) Tenant or occupant. The words "tenant" or "occupant," applied to a building or land, shall include any person holding a written or oral lease of, or who occupies the whole or a part of, that building or land, either alone or with others.

(31) Time. Words used in the past or present tense include the future as well as the past and present.

(32) Town. The words "the town" or "his town" shall be construed as if the words "of Talking Rock" followed.

(33) Week. The word "week" shall be considered to mean seven (7) days.

(34) Written, in writing. Written "or in writing" shall be construed to include any representation of words, letters or figures, whether by printing or otherwise.

(35) Year. The word "year" shall mean a calendar year. (ord. of 3-26-1996)

Sec. 1-1-3 Catchlines of sections.

The catchlines of the several sections of this code are intended as mere catchwords to indicate the contents of the section and shall not be deemed or taken to be titles of those sections nor as any part of the section, nor, unless expressly so provided, shall they be so deemed when any of such sections, including the catchlines, are amended or reenacted. (ord. of 3-26-1996)

Sec. 1-1-4 Severability of parts of code.

It is hereby declared to be the intention of the mayor and council that the sections, paragraphs, sentences, clauses and phrases of this code are severable, and if any phrase, clause, sentence, paragraph or section of this code shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, that unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this code, since the same would have been enacted by the mayor and council without the incorporation in this code of any such unconstitutional phrase, clause, sentence, paragraph or section. (ord. of 3-26-1996)

Section 1-1-5 General penalty, continuing violations.

(a) Whenever in this code or in any ordinance of the town any act is prohibited or is made or declared to be unlawful or an offense, or whenever in this code or in any ordinance the doing of any act is required or the failure to do any act is declared to be unlawful, where no specific penalty is provided therefor, the violation of that provision of this code or that ordinance shall be punished by a fine not to exceed \$500 or imprisonment for a term not exceeding 30 days, or work on the public streets or public works of the town for a term not exceeding twenty (20) days or any other punishment as may be authorized by the Official Code of Georgia (1982), as amended, subject to all limitations contained in the charter of the town. Each day any violation of this code or of any ordinance shall continue shall constitute a separate offense.

(b) The infliction of a penalty under the provisions of this section shall not present the revocation of any permit or license or the taking of other punitive or remedial action where called for or permitted under the provisions of the town's charter or code. (ord. of 3-26-1996), O.C.G.A. § 1-1-1 et. seq.

Section 1-1-6 Amendments to code: effect of new ordinances:
amendatory language.

(a) All ordinances passed subsequent to this code which amend, repeal or in any affect this code may be numbered in accordance with the numbering system of this code and printed for inclusion herein. Chapters, sections and subsections or any part thereof, repealed by subsequent ordinances, may be excluded from the code by omission from reprinted pages affected thereby. The City Attorney shall maintain a current codified version of this Code. The subsequent ordinances as numbered and printed, or omitted in the case of repeal, shall be prima facie evidence of these subsequent ordinances until such time that the code and subsequent ordinances numbered or omitted are readopted as a new code by the mayor and council, or as updated by the City Attorney.

(b) All sections, Chapters, chapters or provisions desired to be repealed shall be specifically repealed by section, articles or chapter number, as the case may be.

(c) When necessary, sections and subsections to the code may be renumbered by the official codifier for the town to fulfill the intent of the governing body but all such changes shall be approved in advance by the town attorney. (ord. of 3-26-1996)

Sec. 1-1-7 Altering code.

It shall be unlawful for any person in the town to change or amend by additions or deletions, any part or portion of this code, or to insert or delete pages or portions thereof, or to alter or tamper with this code in any manner except by ordinance or other official act of the mayor and council which will cause the law of the town to be misrepresented thereby. Any person violating this section shall be punished as provided in section 1-1-5. (ord. of 3-26-1996)

TITLE:

General Government

Chapter 1	Mayor and Council
Chapter 2	Elections
Chapter 3	Recorder's Court
Chapter 4	Administration
Chapter 5	Finances and Taxation

CHAPTER 1

Mayor and Council

ARTICLE A

General Provisions

§ 2-1-1 Compensation.

§§2-1-2 through 2-1-10 reserved.

ARTICLES B

Meetings

§ 2-1-11 Regular meetings.

§2-1-12 Adjourned meetings.

§2-1-13 Order of business.

§ 2-1 -14 Rules of procedure.

§2-1-15 Previous questions.

§2-1-16 Motions having precedence.
§ 2-1-17 Motion to adjourn.

ARTICLES A

General Provisions

Sec. 2-1-1 Compensation.

The mayor and council members shall receive no compensation but may be reimbursed for expenses incurred in the performance of their duties subject to approval of the governing body. (ord. of 3-26-1996)

Sees. 2-1 -2 through 2-1-10 reserved.

ARTICLE B

Meetings

Sec. 2-1-11 Regular meetings.

Regular meetings of the mayor and council are held at the town hall or at such other place, date and time as may be designated, on the first Thursday of each month at 7:00 p.m. (ord. of 3-26-1996)

Sec. 2-1-12 Adjourned meetings.

If a quorum shall fail to attend any regular or special meeting of the mayor and council or if for any reason any meeting shall fail to complete transaction of the business before the meeting, the meeting may be adjourned to any date prior to the next regular meeting agreed upon by a majority of the members present. (ord. of 3-26-1996)

Section 2-1-13 Order of business.

- (a) The order of business at all regular meetings shall be as follows:
- (1) approval of minutes of last meeting;
 - (2) approval of invoices;
 - (3) corrections, if any, to be made in same;
 - (4) reports of committees;
 - (5) unfinished business;
 - (6) reading by the clerk of any communications: and
 - (7) new business.
- (b) If the mayor and council directs any matter to be the special business of a future meeting, that matter shall have precedence over all other business at that future meeting. (ord. of 3-26-1996)
- (c) No proposition shall be entertained by the mayor and council until it has been seconded, and every proposition shall, when required by the major or any member, be reduced to writing. (ord. of 3-26-1996)

§2-1-16 Motions having precedence.
§ 2-1-17 Motion to adjourn.

ARTICLES A

General Provisions

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(c) No proposition shall be entertained by the mayor and council until it has been seconded, and every proposition shall, when required by the major or any member, be reduced to writing. (ord. of 3-26-1996)

Sec. 2-1-14 Rules of procedure.

Except as otherwise provided by ordinance, the procedures of the mayor and council shall be governed by the latest edition of Robert's Rules of Order. (ord. of 3-26-1996)

Sec. 2-1-15 Previous questions. Cross-reference the latest edition of Robert's Rules of Order.

The previous questions may be called at any time by a majority of the members present. The ayes and nays may be called for by any member. (ord. of 3-26-1996)

Sec. 2-1-16 Motions having precedence.

(a) When a question is under consideration no motion shall be received except as follows:

- (1) to lay on the table;
- (2) to postpone to a time certain;
- (3) to postpone indefinitely;
- (4) to refer to a committee;
- (5) to amend;
- (6) to strike out or insert: or
- (7) to divide.

(b) Motions for any of these purposes shall have precedence in the order named.

(ord. of 3-26-1996)

Sec. 2-1-17 Motion to adjourn.

A motion to adjourn shall always be in order and shall be decided without debate. (ord. of 3-26-1996)

CHAPTER 2

Elections State Law Reference:

Georgia Municipal Elections, OCGA, Title 21, Ch. 2 et seq.

- § 2-2-1 Election officials.
- § 2-2-2 Voter registration deadline.
- § 2-2-3 Notice of candidacy; filing dates.
- § 2-2-4 Qualification fees.
- § 2-2-5 Polling place.

Sec. 2-2-1 Election officials.

The major and council shall by resolution annually appoint a municipal election superintendent, election managers, registrars, absentee ballot clerk and any other officials as are necessary, all of whom shall exercise those powers and duties set forth in the Georgia municipal Election Code (OCGA, Title 21, Ch. 3), as now or hereafter amended. (ord. of 3-26-1996) O.C.G.A. § 21-2-1 et seq.

Sec. 2-2-2 Voter registration deadline.

The deadline for registration of voters in town elections shall be 5:00 p.m. on the day set pursuant to O.C.G.A. § 21-2-224 prior to the date of the election at the county registrar's office. (ord. of 3-26-1996) O.C.G.A. § 21-2-224.

Sec. 2-2-3 Notice of candidacy: filing dates.

Notices of candidacy shall be filed by candidates for offices of the governing authority not sooner than 45 days prior to the election in the case of a general election and not sooner than 30 days prior to the election in the case of a special election. The deadline for filing the foregoing notices of candidacy shall be 22 days prior to the election in the case of a general election; and 15 days prior to the election in the case of a special election. Notices of candidacy shall be filed in the office of the municipal election superintendent during normal business hours. (ord. of 3-26-1996) O.C.G.A. § 21-1-130 et seq.

Sec. 2-2-4 Qualification fees.

There shall be no qualification fees for candidates filing a notice of candidacy in any general or special election for the office of mayor or town council member. (ord. of 3-26-1996)

Sec. 2-2-5 Polling place.

The polling place shall be as fixed from time to time by resolution of the mayor and council.

(ord. of 3-26-1996)

State Law Reference: OCGA, Sec. 21-2-260 et seq.

CHAPTER 3

Recorder's Court

(Reserved)

CHAPTER 4

Administration

- § 2-4-1 Town clerk; duties
- § 2-4-2 Town attorney; duties.
- § 2-4-3 Departments established.
- § 2-4-4 Holidays.
- § 2-4-5 Records management.
- § 2-4-6 Annual leave policy.

Sec. 2-4-1 Town clerk: duties.

In addition to the duties of the town clerk under the town charter, the town clerk shall perform the following duties:

- (1) be the custodian of the town seal and affix its impression on documents whenever required.
- (2) preserve the codes, records and documents belonging to the town and maintain a proper index to all records and documents;

(3) receive all money due the town, including taxes, licenses and fees, and pay out the same only upon orders of the mayor and council;

(4) perform any other duties as may be required by the major and council; and

(5) The Mayor shall fulfill these duties in the event that a paid town clerk is not provided by the town council.

(ord. of 3-26-1996)

Sec. 2-4-2 Town attorney: duties.

The town attorney shall be the legal advisor and representative of the town and in that capacity shall;

(1) prepare ordinances when so requested by the mayor and council;

(2) prepare for execution all contracts and instruments to which the town is a party when so requested and approve, as to form, all ordinances, bonds and town contracts; and

(3) render any other legal services as may be required by the major and council.

(ord. of 3-26-1996)

Sec. 2-4-3 Departments established.

The following departments of the town are hereby established:

(1) police;

(2) fire;

(3) water and sewerage;

(4) historic preservation.

(ord. of 3-26-1996)

Sec. 2-4-4 Holidays.

The following days are observed as official town holidays:

(1) New Year's Day;

(2) Memorial Day;

(3) July 4th;

(4) Thanksgiving Day;

(5) Christmas Day.

(ord. of 3-26-1996)

Sec. 2-4-5 Records management.

(a) The town clerk is responsible for records management activities and shall direct and coordinate all records management matters.

(b) Records shall be maintained in accordance with approved retention schedules.

(ord. of 3-26-1996), O.C.G.A. § 50-18-99

CHAPTER 5

Finance and Taxation

ARTICLE A

General Provisions

§2-5-1 Fiscal year.

§ 2-5-2 Annual budget; appropriations.

§ 2-5-3 Purchasing.

§§2-5-4 through 2-5-10 reserved.

ARTICLE B

Property Taxes

§2-5-II Tax rate.

§ 2-5-12 Tax due and payable.

§ 2-5-13 Collection of delinquent taxes, fees or other revenue; interest.

§§2-5-14 through 2-5-20 reserved.

ARTICLE C

Occupation, Professional and Business Taxes

§ 2-5-21 Definitions.

§ 2-5-22 Levy of tax.

§ 2-5-23 Separate businesses.

§ 2-5-24 Registration required.

§ 2-5-25 Payment of tax.

§ 2-5-26 Issuance of tax certificates.

§ 2-5-27 Certificate to be displayed.

§ 2-5-28 Change of address.

§ 2-5-29 Change of ownership; transfers.

§ 2-5-30 Special provisions for insurance companies.

§ 2-5-31 Financial institutions tax.

§ 2-5-32 Enforcement.

§ 2-5-33 Penalties.

§ 2-5-34 Criminal penalties; license revoked.

ARTICLE A

General Provisions

Sec. 2-5-1 Fiscal year.

The fiscal year of the town shall commence on January 1 and end on December 31 of each year.
(ord. of 3-26-1996)

Sec. 2-5-2 Annual budget: appropriations.

An annual budget and an appropriations ordinance shall be adopted by the mayor and council prior to the first day of the Fiscal year. However, if for good and sufficient reasons the budget cannot be adopted by the first day of the fiscal year, the budget shall be adopted not later than 45 days subsequent to the beginning of the fiscal year. If the budget and the appropriations ordinance are not adopted prior to the beginning of the fiscal year, this section automatically authorizes the continuation of necessary and essential expenditures to operate the town. The budget as adopted shall be a balanced budget with anticipated revenues (including appropriated unencumbered surplus) equal to appropriated expenditures. All funds within the budget shall also be balanced. (ord. of 3-26-1996), O.C.G.A. § 36-81-3

Sec. 2-5-3 Purchasing.

The mayor shall serve as purchasing agent of the town, and shall:

- (1) arrange and negotiate the purchase or contract for all equipment, supplies and contractual services for the town and sell or otherwise dispose of all surplus town equipment and supplies; and
- (2) maintain an inventory of all materials, supplies or equipment owned by the town.

(ord. of 3-26-1996)

Sec. 2-5-4 through 2-5-10 reserved.

ARTICLE B

Property

Taxes

Sec. 2-5-11 Tax rate.

An annual ad valorem tax upon all real and personal property within the town is hereby levied. The mileage rate therefor shall be established each year by resolution of the mayor and council. (ord. of 3-26-1996), Ga. Const. Art. 9, § 4, ¶ I.

Section 2-5-12 Tax due and payable.

- (a) All ad valorem taxes due the town shall be billed and paid in one (1) payment.
- (b) Ad valorem tax bills, as adjusted to conform to the tax digest of the county shall be payable on or before December 20, but in the event of adjustment by the state revenue commissioner; the town shall, within a reasonable time thereafter as may be determined by resolution of the mayor and council, after receipt from the county of the adjustment information, refund any overpayments or bills for any underpayments. (ord. of 3-26-1996)

SEC. 2-5-13 Collection of delinquent taxes, fees or other revenue: interest.

(a) For the collection of delinquent taxes, a fi. fas. shall be issued by the town clerk and executed by the chief of police under the procedure provided by the laws of the State of Georgia governing execution of process from the superior court, or by use of any other available process and remedies.

(b) A lien shall exist against all property on which town property taxes are levied, as of the assessment day of January 1 of each year, which shall be superior to all other liens except that it shall have equal dignity with those for federal, state or county taxes.

(c) The amount due on all delinquent fi. fas. issued under subsection (a) hereof as well as any interest or penalty thereon shall be listed as a pan of and in addition to the annual ad valorem tax bill.

(d) Any license, privileged or permit granted by the town shall be revoked by the town clerk for the failure to pay any money due the town for taxes, fees, penalties, interests, fines, or other revenue, within three (3) calendar months and ten (10) days after any payment is due; provided, that any person aggrieved by the order may with ten (10) thereon, may approve or modify the order or restore the license privilege or permit by adopting a motion to that effect but only upon finding that the town clerk's action was not factually or legally correct.

(e) Unless otherwise provided in this code, all fi. fas. issued hereunder shall earn interest at the maximum rate allowed by state law and no penalty shall be changed except in lieu of interest. (ord. of 3-26-1996)

ARTICLE C

Occupation, Professional and Business Taxes

Sec. 2-5-21 Applications.

Every person required to procure a license under the provisions of this chapter or any ordinance or law of this municipality shall submit an application for such license to the town clerk, which application shall conform to the requirements of this section. (ord. of 3-26-1996), O.C.G.A. § 48-13-6

1. Form of application. Each application shall be a written statement upon forms provided by the town clerk.
2. Contents of application. Each application shall contain the following information:
 - a. name and home address of the applicant if an individual, or home office address if a corporation or partnership;
 - b. place where the proposed business is to be located;
 - c. kind of business to be carried on;
 - d. name and home addresses of the partners, if a partnership
 - e. names and home addresses of the officers and directors, if a corporation;
 - f. complete record of all arrests and convictions against the applicant and every partner, officer or director of the applicant for violations of any and all laws and ordinances of the town, state or federal government; and
 - g. Such additional information which the town clerk or council may find reasonably necessary to the fair administration of this chapter.
3. Verification. Each application shall be sworn to by the applicant if an individual, or by a partner if a partnership, or by an officer if a corporation.
4. Payment of fee. Each application shall be accompanied by the amount of fee chargeable for such license, such amount to be prorated by quarters to the end of the fiscal year.
 - a. Issuance of receipts. The town clerk shall issue a receipt to the applicant for the amount of the fee tendered with the application for a license, provided that such receipt shall not be construed as approval of the application, nor shall it entitle or authorize the applicant to open or maintain any business contrary to the provisions of this chapter.
 - b. Rebate of fee. Upon the disapproval of any application for which a fee has been submitted under the provisions of this chapter, the town clerk shall refund such fee, provided that the applicant is not otherwise indebted to the town.

5. Confidentiality of information. All information furnished or secured under the authority of this section shall be kept in strict confidence by the town clerk, shall not be subject to public inspection, and shall be utilized solely by the officers of the town responsible for administering the provisions of this chapter.

6. False statements. False statements on any application for a license shall be grounds for immediate revocation of such license.

Sec. 2-5-22 Procedure for issuance.

1. Review by town officers. If any provision of this chapter or any licensing ordinance of the town provides for the review of an application for a license by a town officer designated therein, the town clerk shall forward a copy of the application to such officer within 48 hours of the time of the receipt of the application. The officer charged with the duty of reviewing the application shall make a recommendation thereon, favorable or otherwise, and shall return such recommendation to the town clerk within seven (7) days after receiving a copy of the application.

2. Council consideration. Upon the receipt of the recommendation of the reviewing officer as hereinabove provided, or upon the receipt of the application if no reviewing officer is designated, the town clerk shall forward such recommendation and/or application to the town council for consideration and action at its next regular scheduled public meeting.

3. Limitation on issuance. No license shall be issued to any applicant whose place of business is not in full compliance with all minimum standard building codes adopted by this municipality.

4. Issuance of license. Upon the express approval of the town council, the town clerk shall issue a business license to the applicant therefore, which license shall state the nature of the business authorized and bear the date of issuance and the signatures of the mayor and town clerk.

5. Council discretion. The granting of a business license under the provisions of this chapter shall be deemed a privilege only, and nothing herein contained shall be construed as granting any person whose business is subject to municipal regulation any legal right to engage in such business.

Note: The granting or denying of a business license is a discretionary rather than a ministerial act and cannot be delegated by the town council. (ord. of 3-26-1996)

Sec. 2-5-23 Display of the license.

It shall be the duty of any person conducting a licensed business in the town to keep his license posted in a conspicuous place on the premises used for such business at all times. (ord. of 3-26-1996)

Sec. 2-5-24 Inspections.

1. Search of premises. Whenever inspections of the premises used for or in connection with the operation of a licensed business or occupation are provided for or required by ordinance, or are reasonably necessary to secure compliance with any ordinance provision or to detect violations thereof, it shall be the duty of the licensee, or the person in charge of the premises to be inspected, to admit thereto for the purpose of making the inspection any officer or employee of the town who is authorized or directed to make such inspection at any reasonable time that admission is requested.

2. Testing of material. Whenever an analysis of any commodity or material is reasonably necessary to secure conformance with any ordinance provision or to detect violations thereof, it shall be the duty of the licensee of the municipality whose business is governed by such provision to give to any authorized officer or employee of the town requesting the same sufficient samples of such material or commodity for such analysis.

3. Refusal to allow inspection. In addition to any other penalty which may be provided, the mayor may revoke the license of any licensed proprietor of a licensed business in the town who refuses to permit any officer or employee who is authorized to make such inspection or take such sample to make the inspection, or take an adequate sample of the said commodity, or who interferes with such officer or employee while in the performance of his duty in making such inspection; provided that no license shall be

revoked for such cause unless written demand is made upon the licensee or person in charge of the premises, in the name of the town, stating that such inspection or sample is desired at the time it sought to make the inspection or obtain the sample. (ord. of 3-26-1996)

Sec. 2-5-25 Termination and renewal of licenses.

1. All annual licenses shall terminate on February 1st.
2. Each licensee shall make a written application for renewal on forms supplied by the town clerk on or before February 1st of each calendar year, which application shall contain substantially the same information as the initial application and be accompanied by all required fees.
3. A license taken out after February 1st shall nevertheless terminate the following February 1st. No deduction shall be made for time less than one year.
4. An applicant for renewal of a license shall be entitled to a refund of fees tendered if he withdraws his application for renewal prior to final action on the same by the town council. (ord. of 3-26-1996)

Sec. 2-5-26 Revocation, suspension, etc.

The town council, after affording the licensee notice of the charges and opportunity to be heard with respect to any revocation proceedings, may - if it finds this chapter to have been violated by the licensee, his agent, or employee — revoke such license in its entirety, suspend the same for a specified period of time, place the licensee on probation, or place other conditions thereon as the council may deem necessary. (ord. of 3-26-1996)

Sec. 2-5-27 Change of location

In the absence of any provision to the contrary, the location of any licensed business or occupation may be changed, provided ten (10) days' notice thereof is given to the town clerk, and provided that all building and zoning requirements are complied with. (ord. of 3-26-1996)

Sec. 2-5-28 Transfer of licenses.

All licenses shall be personal to the licensee to whom issues, but in cases where the ownership is changed and both the name and location of the licensed business or occupation are maintained, the mayor and town council may allow the license to be transferred. (ord. of 3-26-1996)

Sec. 2-5-29 Duplicate licenses

A duplicate license shall be issued by the town clerk to replace a previously issued license which has been lost, stolen, defaced, or destroyed without any willful conduct on the part of the licensee, upon the filing of a sworn affidavit attesting to such fact and the payment of a fee of \$5.00 to the town clerk. (ord. of 3-26-1996)

Sec. 2-5-30 Branch offices

For the purposes of this chapter, each branch establishment or location wherein a representative of the owner shall be deemed a separate place of business for which a separate license shall be required, provided that warehouses and distributing plants used in connection with and incidental to a business licensed under the provisions of this chapter shall not be deemed to be separate places of business or branch offices. (ord. of 3-26-1996)

Sec. 2-5-31 Joint license

A person engaged in two or more businesses at the same location shall be required to obtain separate licenses for conducting each of such businesses for which a license is required.

Sec. 2-5-32 Penalties

Any person who shall conduct a business or occupation without having obtained a license therefor as required by this chapter, or who shall violate any other provisions of this chapter, shall, upon conviction therefor, be punished by a fine not to exceed \$500.00 and costs, or by imprisonment not to exceed 20 days, or both; any and all of such penalties to be imposed in the discretion of the judge of the recorder's court. Each twenty-four (24) hour period of violation shall be considered a separate offense.

In addition to the above penalties, the defendant shall be subject to, and the Town of Talking Rock's clerk shall issue execution for, the tax fee due to the town for which such person is subject. (ord. of 3-26-1996)

ARTICLE H Businesses Regulated Sec. 2-5-33 Insurance

Businesses

1. License required. Each person, agency, firm, or company doing an insurance business within the municipal corporate limits shall be required to obtain a license from the city clerk in the manner specified in this chapter.

2. Company license fee. There is hereby levied for the year 1978 and for each year thereafter an annual license fee upon each insurance company insuring risks within the Town of Talking Rock in the amount of twenty five dollars (\$25.00) plus an additional licensee fee of twenty-five dollars (\$25) for each separate business location in excess of one operated and maintained by such company within the Town of Talking Rock; provided, however, that said license fee shall entitle a company to write only one class of insurance, and any company writing more than one class of insurance shall be liable for additional such license fees for each class of insurance written within the Town of Talking Rock. For the purposes of this Ordinance, the insurance business is classified according to the five classes enumerated in Section 53-305 of the Georgia Insurance Code.

3. Agency license fee. Independent agencies, brokers, etc., not otherwise licensed: There is hereby levied for the year 1978 and for each year thereafter an annual license fee upon each separate business location from which an insurance business is conducted and which is not subject to the company license fees imposed by Section I hereof, in the amount of twenty five dollars (\$25) for each such location within Town of Talking Rock; of insurance business to be conducted from such location, and the writing of more than one class of insurance from such location shall render such location liable for an additional such license fee for each class of insurance written.

4. Administrative provisions.

a. The license fees levied by Section 2 and 3 hereof are due and payable on February 1, 1978, and on February 1 of each succeeding year. Any such license fee not paid by March 15, for each respective year shall be delinquent.

b. Every insurance company doing business within the Town of Talking Rock and subject to the fees herein imposed shall file with the Town Clerk, on forms prescribed by him, a report showing the names and addresses of its agents representing such company in the Town of Talking Rock: the location and person in charge of each and every business location with the Town operated and maintained by such company; the classes of insurance written: and such other reasonable information as may be required, and, in addition, shall furnish complete information regarding the premium received, by class, from policies written on risk residing or located with the town of Talking Rock. Such

report shall be made over affidavit of an officer of such company. It is hereby declared to be a violation of this ordinance for any person, firm, corporation or their agents to knowingly give false or incomplete information on any such report. Said report shall be filed at the time of paying the license fee and premium tax.

c. The person responsible for each such insurance business location subject to license fee under Section 2 hereof shall file with the Town Clerk a report on forms prescribed by him, showing the address of the business location; the class or classes of insurance written; the names of the persons writing insurance at such location; the names of the companies represented; and such other reasonable information as may be required. Such report shall be made over affidavit of the person in charge of such business location. It is hereby declared to be a violation of this ordinance for any person, firm, corporation or their agents to knowingly give false or incomplete information on any such report. Said report shall be filed at the time of paying the license fee.

b. All reports required to be filed under this Section shall be confidential and the information contained therein shall be solely for the use of the officers of the Town responsible for administering this Section.

5. Enforcement. The fees and taxes levied by this Ordinance may be enforced by execution in the same manner as other taxes of the Town of Talking Rock. A violation of this Ordinance shall be grounds for refusing or revoking a license, and the person responsible may be punished as for violations of other Town Ordinances. (ord. of 3-26-1996)

Sec. 2-5-34 Construction contractors

1. Definition. A contractor, general or builder is defined as any person who engages in the business of supervising the construction, alteration, or repair of buildings in the Town of Talking Rock (even if doing part of the work himself) and who has general direction and control of the carpenters, masons and other parties employed in the work shall be classified as a general contractor or builder regardless of the method he is compensated for his service.

2. License fee. A contractor or builder shall pay an annual license fee of \$50.00.

3. Subcontractors. The above license shall include the license for grading, excavating, painting, paper hanging, floor finishing, roofing, sheet metal work and weather stripping provided those persons doing the work are employed by the general contractor or builder, but each subcontractor doing any work for a general contractor must have a Town of Talking Rock license covering the specific type of work being handled by subcontractor.

Sec. 2-5-35 Merchants

Any person, firm or corporation doing any retail merchandise business, including grocery, butcher, drug and notion, florist, feed and seed, building materials, jewelry, furniture, appliance, hardware, machinery and farm implements, fruit and vegetable, shoes, haberdashery, antique shops, used furniture, auto supplies, department stores, poultry supply, hobby shop, wearing apparel, book and stationery, but not limited to these shall pay the following license fee:

\$25.00 plus \$1.50 per thousand at cost on the inventory as reported on State Income Tax return at the end of the business for fiscal year next preceding January 1st. A return must be filed with the Town Clerk, which may be obtained at the City Hall.

(ord. of 3-26-1996)

Sec. 2-5-36 Special or limited licenses

The following licenses shall be set by Mayor and Council on an individual basis after application is made to the Town Clerk for these licenses:

New Manufacturing Amusements,
Rides, etc. Entertainment (All kinds
and places) Skating Rinks Shooting
Galleries

(ord. of 3-26-1996)

Sec. 2-5-37 Solid waste collectors

1. License required. Each person engaged in the business of solid waste collection and disposal in this municipality shall be required to obtain a license from the Town Clerk in the manner specified in this chapter.

2. Application. Application for a license to engage in the business of solid waste collection and disposal shall be made as provided in Article I of this chapter, except that such application shall contain the following additional information:

- a. number, type and size of waste collection vehicles to be used;
- b. the number of employees to be assigned to each waste collection vehicle;
- c. name and location of commercial and industrial establishments and/or the number of residences to be served.
- d. the types of waste to be collected; and
- e. the state permit number of each disposal site to be used.

3. Fee established. The annual business license fee for solid waste collectors doing business within this municipality shall be \$25.00.

4. Review of application. No action on any application for a license to engage in the business of solid waste collection and disposal shall be taken by the Town Council until the street superintendent has reviewed such application and forwarded his recommendation thereon to the Town Clerk, in the manner specified in this chapter.

5. Limitation on issuance. No license shall be issued to any person whose solid waste collection vehicles do not meet the standards established for such vehicles in the solid waste management ordinance of this Town.

6. Duty of licensees. It shall be the duty of all persons issued a license under this section to conform to the requirements of the Solid Waste Management Ordinance of this Town, and failure to so conform shall be grounds for revocation of said license. (ord. of 3-26-1996)

Sec. 2-5-38 Peddlers and itinerant merchants

1. License required. Each peddler and itinerant merchant as such terms are defined herein, who does business within this municipality shall be required to obtain a license from the Town Clerk in the manner specified in this chapter. No license shall be issued without the approval of the Town Council.

2. Definitions. For the purposes of this section, the following words shall have the meanings specified:

- a. The word "peddler" shall include any person—whether a resident of this town or not—traveling by foot, wagon, automotive vehicle, or any other type of conveyance from place to place, from house to house, or from street to street, carrying, conveying or transporting goods, wares.

merchandise, meats, fish, vegetables, fruits, garden produce, farm products or provisions who offers and exposes the same for sale, or who, without traveling from place to place, sells or offers the same for sale from a wagon, automotive vehicle, railroad car, or other vehicle or conveyance.

b. An "itinerant merchant" is defined as any person, firms or corporation—whether as owner, agent, consignee or employee, whether a resident of the town or not—who engages in a temporary business of selling and delivering goods, wares, and merchandise within the town, and who, in furtherance of such purpose, hires, leases, uses or occupies any building, structure, motor vehicle, tent, railroad box car, boat, or public room in any hotel, lodging house, apartment, or shop within the town for the exhibition and sale of such goods, wares, and merchandise, either privately or at public auction.

3. Exemptions. This section shall not be applicable to traveling salesmen or nonresident merchants as provided in Chapter 92-4105 of the Georgia Code Annotated, nor to newsboys, nor to bona fide merchants who merely deliver goods in the regular course of business, nor to bona fide charitable, religious, or philanthropic organizations.

4. Application. Application for a license under this section shall be made as provided in Article I of this chapter, except that such application shall contain the following additional information:

a. the fingerprints of the person or persons having the management or supervision of the applicant's business, or in lieu thereof at least three letters of recommendation from reliable property owners in the county in which the business is to be conducted, certifying as to the applicant's good character and business responsibility, or other evidence which establishes the good character and business responsibility of such person or persons to the satisfaction of the mayor and council;

b. the place or places in the town where it is proposed to carry on applicant's business, and the length of time during which it is proposed that said business shall be conducted;

c. the place or places, other than the permanent place of business of the applicant, where applicant within the six months next preceding the date of said application conducted a transient business, stating the nature thereof and giving the post office and street address of any building or office in which such business was conducted.

d. a statement of the nature, character, and quality of the goods, wares, or merchandise to be sold or offered for sale by the applicant in the town; the invoice value and quality of such goods, wares, and merchandise; where the goods or property to be sold are manufactured or produced; and where such goods or products are located at the time said application is filed;

e. a brief statement of the nature and character of the advertising done or proposed to be done in order to attract customers, and, if required by the Town Clerk, copies of all said advertising whether by handbills, circulars, newspaper advertising, or otherwise, shall be attached to said application as exhibits thereto; and

f. whether or not the person or persons having the management or supervision of the applicant's business have been convicted of a crime, misdemeanor, or the violation of any municipal ordinance, the nature of such offense, and the punishment assessed therefor.

5. Bond. Before any license shall be issued for engaging in a transient or itinerant business as provided in this section, the applicant for such license shall file with the Town Clerk a bond running to the Town in the sum of \$1,500.00, executed by the applicant, as principal, and two sureties upon which service of process may be made in the State of Georgia: said bond to be approved by the Town attorney, conditioned that the said applicant shall comply fully with all of the provisions of the ordinances of this Town and statutes of this state regulating and concerning the sale of goods, wares, and merchandise, and will pay all judgments rendered against said applicant for any violation of said ordinances or statutes, or any of them, together with all judgments and costs that may be recovered against him by any person or persons

for damage growing out of any misrepresentation or deception practiced on any person transacting such business with such applicant, whether said misrepresentations or deceptions were made or practiced by the owners or by their servants, agents, or employees, either at the time of making the same or through any advertisement of any character whatsoever, printed or circulated with reference to the goods, wares, and merchandise sold or any part thereof. Action on the bond may be brought in the name of the town to the use of the aggrieved person. Such bond must be approved by the town attorney, both as to form and as to the responsibility of the sureties thereon.

6. Service of process. Before any license as herein provided shall be issued for engaging in business as a peddler or itinerant merchant in this municipality, the applicant for such license shall file with the Town Clerk an instrument nominating and appointing the Town clerk his true and lawful agent with full power and authority to acknowledge service of notice of process for and on behalf of said applicant in respect to any matters connected with or arising out of the business transacted under said license and the bond given as required by this section, or for the performance of the conditions of said bond, or for any breach thereof, which said instrument shall also contain recitals to the effect that said applicant for said license consents and agrees that service of any notice or process may be made upon said agent, and when so made shall be taken and held to be as valid as if personally served upon the person or persons applying for the said license under this ordinance, according to the law of this or any other state, and waiving all claim or right of error by reason of such acknowledgment of service or manner of service. Immediately upon service of process upon the Town Clerk, as herein provided the Town Clerk shall send to the licensee at this last known address, by registered mail, a copy of said process.

7. Fee established. The business license fee for each peddler and itinerant merchant doing business in the Town of Talking Rock shall be the same as the fee for similar businesses in the Town, or \$25.00 for dissimilar businesses.

8. Duty to exhibit. All persons obtaining a license under the provisions of this section shall be required to exhibit such license at the request of any citizen.

9. Loud noises and speaking devices. No licensee under this section, nor anyone on his behalf, shall shout, make any outcry, blow a horn, ring a bell, or use any other sound device including any loud-speaking radio or amplifying system upon any of the streets, alleys, parks, or other public places of the Town or upon any private premises in the Town where sound of sufficient value is emitted or produced therefrom capable of being plainly heard upon the streets, avenues, alleys, parks or other public places for the purpose of attracting attention to any goods, wares or merchandise which such licensee proposes to sell. (ord. of 3-26-1996)

Sec. 2-5-39 Charitable solicitors

1. Registration required. Any person who wishes to solicit donations or contributions for, or to sell any insignia or novelty on the streets of the Town on behalf of, or under the sponsorship of, any charitable, religious, social, patriotic or civil club or organization shall be required to register such solicitation or sale with the chief of police at least 48 hours in advance of such event and to obtain a permit therefor.

2. Form of registration. The registration required by this section shall be in writing, shall be signed by the chief officer of the club or organization, and shall contain the following information:

- a. the name and object of the charitable, religious, social, patriotic, or civic club or organization conducting or sponsoring the solicitation or sale to which the registration relates;
- b. the day or days on which the solicitation or sale will take place;
- c. the object for which the funds to be derived from the solicitation or sale will be utilized: and

d. the name and address of the chief officer of the club or organization conducting or sponsoring the solicitation or sale.

3. Exemption. This section shall not apply to any locally established organization or church operated exclusively for charitable or religious purposes if the solicitations are in the form of collections or contributions at the regular assemblies of any such organization or church.

4. Duty to exhibit. Charitable solicitors shall be required to exhibit their permits at the request of any citizen.

5. Unlawful acts. It shall be unlawful for any person to execute a registration which contains any false statement, and it shall be unlawful for any person to solicit donations or contributions or sell any insignia or novelty on the streets of the town purportedly in behalf of, or under the sponsorship of, any charitable, religious, social, patriotic, or civil club or organization which does not in fact exist.

Sec. 2-5-40 Pawnbrokers

1. License required. Each pawnbroker doing business within this municipality shall be required to obtain a license from the Town Clerk in the manner specified in this chapter.

2. Fee established. The annual business license fee for each pawnbroker doing business in this Town shall be \$500.00.

3. Review of application. No action on any application for a pawnbroker's license shall be taken by the Town council until the (chief of police) has reviewed such application and forwarded his recommendation thereon to the Town Clerk in the manner specified in this chapter.

4. Limitation on issuance. No pawnbroker's license shall be issued to any person who has been convicted of the offense of receiving stolen goods or of burglary or robbery,

5. Records. Each pawnbroker licensed hereunder shall furnish to the police chief each week a list of every article pledged with him or sold to him during the previous week, giving a full and accurate description of the article, from whom it was received, and the hour of the day received.

6. Weapons. No pawnbroker shall receive as a pledge or purchase any revolver, pistol, blackjack, shotgun, or rifle and no pawnbroker shall display in his window or shop any such weapons for sale.

7. Minors. No pawnbroker shall have any business dealings as a pawnbroker with a minor, nor shall a pawnbroker's license be issued to a minor, nor shall a pawnbroker employ a minor to assist him in his business.

8. Stolen goods. It shall be the duty of every pawnbroker to report to the police any article pledged with him, or which is sought to be pledged with him, if he shall have reason to believe that the article was stolen or lost and found by the person attempting to pledge it in the case of a lost article.

9. Bond. Before the final grant of a license, each pawnbroker shall be required to give the Town a bond of \$5,000.00 to assure the legal operation of the Town. Said bond to be issued by cash or a licensed Georgia insurance company. (ord. of 3-26-1996)

Sec. 2-5-41 Used car dealers

1. License required. Any used car or used motor vehicle dealer, as such terms are defined in the Official Code of Georgia Annotated, who does business with this municipality shall be required to obtain a license from the town clerk in the manner specified in this chapter.

2. Fee established. The annual business license fee for each used car or used motor vehicle dealer doing business in the town shall be \$200.00.

3. Review of application. No action on any application for a license under this section shall be taken by the town council until the (chief of police) has reviewed such application and forwarded his recommendation thereon to the town clerk in the manner specified in this chapter.

4. Restriction on issuance. No license under this section shall be issued to any applicant who has not been licensed by the State Board of Registration of Used Car Dealers.

5. Records. Each used car or used motor vehicle dealer licensed hereunder shall keep a record of all motor vehicles offered for sale, exchange, or disposal to the public, which record shall show the make of said motor vehicle, the year of its manufacture, its serial number, and its engine number, and which record shall always be kept available for the chief of police or any patrolman or police officer within the town and open to his inspection at any time. It shall be the future duty of every such person to immediately report to the chief of police the presence of his place of business of any motor vehicle on which the serial or engine number has been defaced or altered.

6. Inspections. It shall be the duty of the county sheriff's office to make inspections from time to time for the purpose of seeing that the records required herein are being kept.

7. Exceptions. Nothing in this section shall be deemed to apply to any individual making an isolated sale of his own vehicle. (ord. of 3-26-1996)

Sec. 2-5-42 Junk dealers and junkyards.

1. License required. Each junk dealer, as such term is defined in this section, who does business within this municipality, shall be required to obtain a license from the town clerk in the manner specified in this chapter.

2. Definitions. For the purpose of this section, the following words and phrases shall have the meanings respectively ascribed to them herein:

a. Junk - old iron, steel, brass, cooper, tin, lead, or other base metals; old cordage, ropes, rages, fibers, or fabrics; old rubber; old bottles or other glass; bones; wastepaper and other waste of discarded material which might be prepared to be used again in some form; and motor vehicles, no longer used as such, to be used for scrap metal or stripping of parts; but as such, to be used for scrap metal or stripping of parts; but "junk" shall not include materials or objects accumulated by a person as by-products, waste, or scraps from the operation of his own business, or materials or objects held and used by a manufacturer as an integral part of his own manufacturing processes.

b. Junkyard — a yard, lot, or place, covered or uncovered outdoors or in an enclosed building, containing junk as defined above, upon which occurs one or more acts of buying, keeping, dismantling, processing, selling, or offering for sale any such junk, in whole units or by parts, for a business or commercial purpose, whether or not the proceeds from such act or acts are to be used for charity.

c. Junk dealer - a person who operates a junkyard, as defined above, within the town.

d. Business premises or premises -- the area of a junkyard as described in a junk dealer's license or application for license, as provided for in this section.

3. Application. Application for a license under this section shall be made as provided in Article I of this chapter, except that such application shall contain the following additional information:

a. trade names used during the previous five years by the applicant and each person signing the application, along with the locations of prior establishments;

b. Names and addresses of employers of each person signing the application during the previous five years;

c. the name, residence address, and telephone number of each person employed or intended to be employed in the business as of the time the application is filed;

d. a sketch of the actual premises to be used in connection with the business, giving distances in feet and showing adjoining roads, property lines, buildings, and uses; and

e. a description of the materials with which any buildings to be used in connection with the licensed business are or are to be made; a sketch giving distances, showing the location of such buildings on the business premises; and a diagram or plan giving distances and heights, showing floors, exits, entrances, windows, ventilators, and walls.

4. Review of application. No action or any application for a license to operate a junkyard shall be taken by the town council until the planning commission has reviewed such application and forwarded its recommendation thereon to the town clerk in the manner specified in this chapter.

5. Fee established. The annual business license fee for each junk dealer doing business in this municipality shall be \$750.00.

6. General operating requirements. The following general operating requirements shall apply to all junk dealers licensed in accordance with the provisions of this section:

a. The junkyard, together with things kept therein, shall at all times be maintained in a sanitary condition.

b. No space not covered by the license shall be used in the licensed business.

c. No water shall be allowed to stand in any place on the premises in such manner as to afford a breeding place for mosquitoes.

d. No weeds shall be permitted to attain a height of more than four inches.

e. No garbage or other waste liable to give off a foul odor or attract vermin shall be kept on the premises; nor shall any refuse of any kind be kept on the premises, unless such refuse is junk as defined herein and is in use in the licensed business.

f. No junk shall be allowed to rest upon or protrude over any public street, walkway, or curb, or become scattered or blown off the business premises.

g. Junk shall be stored in piles not exceeding 10 feet in height and shall be arranged so as to permit easy access to all such junk for firefighting purposes.

h. No combustible material shall be burned on the premises in any incinerator not meeting the requirements of the building code; and no junk or other material shall be burned on the premises in the open.

k. No noisy processing of junk or other noisy activity shall be carried on in connection with the licensed business on any Sunday, Christmas, Thanksgiving, or at any time between the hours of 6:00 p.m. and 7:00 a.m.

l. The area on the premises where junk is kept (other than indoors) shall be enclosed, except for entrances and exists, with a solid, vertical wall or fence of a minimum height of eight (8) feet measured from ground level. The fence or wall shall not contain any poster or advertising of any kind excepting one sign of the licensee not exceeding four (4) feet in size.

m. Entrances and exists shall not be wider or more numerous than reasonably necessary for the conduct of the licensed business.

n. No junkyard shall be allowed to be such a nuisance; nor shall any junkyard be operated in such manner as to become injurious to the health, safety, or welfare of the community or of any residents close by.

7. Records. Each acquisition of junk shall be recoded in a permanent type register kept on the business premises, giving the name and residence address of the person from whom the acquisition was made, a description of the junk acquired, and the date of the transaction. Such data shall be held available for inspection by any police officer.

8. Minors. No junk dealer shall have any business dealings as a junk dealer with a minor, nor shall a junk dealer's license be issued to a minor, nor shall a junk dealer employ a minor to assist him in his business.

9. Stolen goods. Every junk dealer who shall receive or be in possession of any goods, articles, or things of value which may have been lost or stolen shall upon demand produce such article or thing to any member of the police department for examination.

10. Vehicles. Each vehicle used by a junk dealer in the conduct of his business shall bear thereon in legible characters the name and address of the owner and proprietor thereof. (ord. of 3-26-1996)

Sec. 2-5-43 Auctions

1. License required. Each person who desires to conduct an auction within this municipality shall be required to obtain a license therefor from the town clerk in the manner specified in this chapter.

2. Fee established. The business license fee for each auction licensed under this section shall be \$150.00.

3. Application. Application for a license under this section shall be made as provided in Article I of this chapter, except that such application shall contain the following additional information:

- a. a statement setting forth when, where, and for how long the auction sale will be conducted;
- b. a certified copy of the state auctioneer's license of the person who is to conduct the auction; and
- c. a full and true inventory of all the articles to be sold at the auction sale, together with an affidavit that all information contained in the application is true and that the inventory contains a true listing of all the articles to be sold at said auction.

No auction shall be held except as set forth in the application and affidavit and no other articles shall be sold except those included in the sworn inventory unless a new affidavit shall be filed listing additional goods to be sold. No other person shall be allowed to conduct the auction sale except such person listed in the affidavit unless a new affidavit is filed setting forth such other person who may be employed to conduct such auction and cry off such goods.

4. Bond. Every applicant for a license under this section shall file with the town clerk a surety bond running to the town in the amount of \$2,000 with surety acceptable to and approved by the town clerk, conditioned that the said applicant—if issued a license hereunder—will comply fully with all of the provisions of the ordinances of this town and the statutes of this state regulating and concerning auctions and auctioneers, will render true and strict accounts of all his sales to any person or persons employing him to make the same, will not practice any fraud or deceit upon bidders or purchasers of property from him at any auction sale or suffer or permit any person in his employ to practice any such fraud or deceit, and will pay all damages which may be sustained by any person by reason of any fraud, deceit, negligence, or other

wrongful act on the part of the licensee, his agent, or employees in the conduct of any auction or in the exercise of the calling of auctioneer. A liability insurance policy issued by an insurance company authorized to do business in this state which conforms to the above requirements may be permitted by the town clerk in his discretion in lieu of a bond.

5. Cappers, boosters, or bidders. It shall be unlawful for any person to act or to employ another in any auction sale as a by-bidder or what is sometimes known as a "capper" or "booster", or to make or to accept any false or misleading bid, or to pretend to buy or sell any article sold or offered for sale at such auction.

6. Exemptions. Nothing in this section shall be held to apply to auction sales conducted by trustees or referees in bankruptcy, executors, administrators, receivers, or other public officers acting under judicial process, nor to the sale of real property at auction. (ord. of 3-26-1996)

TITLE 3

Public Safety

Chapter 1	Law Enforcement
Chapter 2	Fire Prevention and Protection
Chapter 3	Historic Preservation
Chapter 4	Flood Prevention
Chapter 5	Abatement of Nuisance

CHAPTER 1

Law Enforcement

- § 3-1-1 Composition of police department.
- §3-1-2 Responsibilities.

Sec. 3-1-1 Composition of police department.

The police department shall consist of those officers and employees of those ranks and positions as approved by the mayor and council. (ord. of 3-26-1996)

Sec. 3-1-2 Responsibilities.

The department shall be responsible for patrol, traffic control, investigation of accidents, investigation of crimes, apprehension of offenders, court appearances, security of business establishments and for any other matters of public safety and law enforcement as directed by the mayor and council. (ord. of 3-26-1996)

CHAPTER 2

Fire Prevention and Protection

ARTICLE A

Fire Department

§ 3-2-1 Fire chief and members.

§ 3-2-2 Interfering with equipment.

§ 3-2-3 Enforcement.

§ 3-2-4 Tampering with alarm system.
§§3-2-5 through 3-2-20 reserved.

ARTICLE B Fire

Prevention Code

§ 3-2-21 Fire prevention code adopted.
§ 3-2-22 Fire limits defined.

ARTICLE A

Fire Department

State Law Reference: Crossing over fire hose, OCGA. Sec. 40-6-248; turning in false alarm of fire, OCGA, Sec. 16-10-27.

Sec. 3-2-1 Fire Chief and members.

The fire department shall be headed by a fire chief and shall be composed of such other paid and volunteer members and employees as may be determined necessary by the mayor and council. (ord. of 3-26-1996)

Sec. 3-2-2 Interfering with equipment.

No person other than a duly enrolled member of the fire department shall ride upon the fire trucks of the town at any time, nor use, borrow or interfere with any department equipment, or attempt to use the equipment at the scene of a fire unless authorized to do so by the fire chief. (ord. of 3-26-1996)

Sec. 3-2-3 Enforcement.

Whenever the fire department is answering an alarm or operating at the scene of a fire or other emergency every enrolled member of the department is hereby empowered and authorized to control and direct motor vehicle traffic, stop or move vehicles, and enforce all provisions of this article and any other code provisions the enforcement of which is deemed necessary to assist in the control of the fire or other emergency. (ord. of 3-26-1996)

Sec. 3-2-1 Tampering with alarm system.

It shall be unlawful for any person or persons to willfully, maliciously or mischievously interfere or tamper with any fire alarm box or any of the appliances or apparatus connected therewith, located within the corporate limits. (ord. of 3-26-1996)

Sec. 3-2-5 through 3-2-20 reserved.

ARTICLE B

Fire Prevention Code

Sec. 3-2-21 Fire prevention code adopted.

The International Fire Code, 2000 Edition, recommended by the Southern Building Code Congress International, Inc. is hereby adopted in its entirety' as a general ordinance of the town and is incorporated herein as fully as if set out at length herein. A copy of the fire prevention code shall be maintained in the office of the town clerk where it shall be available for public inspection. (ord. of 3-26-1996), O.C.G.A. § 8-

2-200 et seq.

Sec. 3-2-22 Fire limits defined.

The fire limits of the town are hereby defined as all ±at area within the town limits, as those limits now exist, or as they may hereafter be amended. (ord. of 3-26-1996)

Chapter 3

Historic Preservation

Sec. 3-3-1. Purpose.

In support and furtherance of its findings and determination that the historical, cultural, and aesthetic heritage of the Town of Talking Rock is among its most valued and important assets and that the preservation of this heritage is essential to the promotion of the health, prosperity and general welfare of the people;

In order to stimulate revitalization of the business districts and historic neighborhoods and to protect and enhance local historical and aesthetic attractions to tourists and thereby promote and stimulate business:

In order to enhance the opportunities for federal tax relief of property owners under relevant provisions of the Economic Recovery Tax Act of 1981 allowing tax investment credits for rehabilitation of certified historic structures (26 U.S.C.A., Section 191);

The Mayor of the Town of Talking Rock hereby declare it to be the purpose and intent of this Ordinance to establish a uniform procedure for use in providing for the protection, enhancement, perpetuation, and use of places, districts, sites, building, structures, and works of art having a special historical, cultural, or aesthetic interest or value, in accordance with the provisions of the Ordinance. (ord. of 3-26-1996), O.C.G.A. § 44-10-24 et seq.

Sec. 3-3-2. Creation of an Historic Preservation Commission.

1. Creation of the Commission. The title of the Commission shall be the "Town of Talking Rock Historic Preservation Commission." Commission members shall be appointed by the Town of Talking Rock officials, and will have only advisory authority in recommending landmark and historic district designation.

2. Commission Position with the Town of Talking Rock Government. "The Town of Talking Rock Historic Preservation Commission" shall be considered a part of the planning functions of the Town of Talking Rock.

3. Commission Members: Number, Appointment, Terms, and Compensation. The Historic Preservation Commission shall consist of three (3) members appointed by the Mayor and ratified by the City Council, who shall be landowners or business owners in the Town of Talking Rock, who have demonstrated special interest, experience, or education in history, architecture, or the preservation of historic resources. Members shall serve three-year terms. In order to achieve staggered terms, initial appointments shall be: one (1) member for one (1) year; One (1) member for two (2) years; and one (1) member for three (3) years. Members do not receive a salary, although they may be reimbursed for expenses.

4. Statement of the Commission's Powers. The Town of Talking Rock Historic Preservation Commission shall be authorized to:

a. Prepare an inventory of all property within its respective historic preservation jurisdiction having the potential for designation as historic property;

b. Recommend to the City Council specific places, districts, sites, buildings, structures,

or works of art to be designated by ordinance as historic properties or historic districts:

c. Review applications for Certificates of Appropriateness, and grant or deny same in accordance with the provisions of this Ordinance:

d. Recommend to the City Council that the designation of any place, district, site, building, structure, or work of art as an historic property or as an historic district be revoked or removed:

e. Restore or preserve any historic properties acquired by the Town;

f. Promote the acquisition by the Town of facade easements and conservation easements in accordance with the provisions of the "Facade and Conservation Easements Act of 1976" (*Georgia Laws 1976, p. 1181*);

g. Conduct an educational program on historic properties located within its historic preservation jurisdiction;

h. Make such investigations and studies of matters relating to historic preservation as the local governing body or the Commission itself may, from time to time, deem necessary or appropriate for the purposes of preserving historic resources;

i. Seek out state and federal funds for historic preservation, and make recommendations to the Town concerning the most appropriate uses of any funds acquired;

j. Submit to the Historic Preservation Section of the Department of Natural Resources a list of historic properties or historic districts designated;

k. Perform historic preservation activities as the official agency of Town historic preservation program;

l. Employ persons, if necessary, to carry out the responsibilities of the Commission;

m. Receive donations, grants, funds, or gifts of historic property, and to acquire and sell historic properties. The Commission shall not obligate the Town without prior consent;

n. Review and make comments to the State Historic Preservation Office concerning the nomination of properties within its jurisdiction to the National Register of Historic Places.

5. Commission's Power to Adopt Rules of Procedure. The Commission shall adopt rules for the transaction of its business and consideration of applications; shall provide for the time and place of regular meetings, and for the calling of special meetings. The Commission shall have the flexibility to adopt rules of procedure without amendment to this Ordinance. A quorum shall consist of a majority of the members. The latest edition of *Robert's Rules of Order* shall determine the order of business at all meetings.

6. Commission's Authority to Receive Funding from Various Sources. The Commission shall have the authority to accept donations and shall insure that these funds do not displace appropriated governmental funds.

7. Records of Commission Meeting. A public record shall be kept of the commission's resolutions, proceedings, and actions. (ord. of 3-26-1996)

Sec. 3-3-3. Designation of Historic Districts and Landmarks.

1. Preliminary Research by the Commission.

a. Commission's Mandate to Conduct a Survey of Local Historical Resources: The Commission shall have the authority to compile and collect information and conduct surveys of historic resources within the Town of Talking Rock.

b. Commission's Power to Recommend Districts and Building to City Council for Designation: The Commission shall present to the City Council nominations for historic districts and

local landmarks.

c. Preparation of a Report on Proposed Designations: The Commission shall prepare formal reports when nominating historic districts or local landmarks. These reports shall be used to educate the community and to provide a permanent record of the designation. The report will follow guidelines for nominating structures to the National Register of Historic Places (National Preservation Act of 1966), and shall consist of two (2) parts: a) a physical description, and b) a description of historic significance. This report will be submitted to the Historic Preservation Section of the Department of Natural Resources.

2. Designation of an Historic District.

a. Criteria for Selection of Historic Districts; An Historic District is a geographically definable area, which contains structures, sites, works of art, or a combination thereof, which:

- (1) have special character or special historic/aesthetic value or interest;
- (2) represent one or more periods or styles of architecture typical of one or more eras in the history of the municipality, county, state, or region;
- (3) cause such area, by reason of such factors, to constitute a visibly perceptible section of the municipality or county.

b. Boundaries of a Historic District: Boundaries of an Historic District shall be specified on tax maps; these boundaries will be included in the separate ordinances designating local districts. Boundaries specified in legal notices shall coincide with the boundaries finally designated. Districts shall be shown on the Official Zoning Map or, in the absence of zoning, on an official map designated as a public record.

c. Evaluation of Properties within Historic Districts: Individual properties within historic districts shall be classified as:

- (1) Historic (more than 50 years old);
- (2) Non-Historic (less than 50 years old, yet possessing architectural character);
- (3) Intrusions (structures less than 50 years old which do not contribute to the historical character of the district).

d. Affirmation of Existing Zoning: This Historic Preservation Ordinance is not a Use Ordinance, and local zoning laws, where they exist, remain in effect until modified.

3. Designation of a Landmark.

a. Criteria for Selection of Landmarks: An historic landmark is a structure, site, work of art including the adjacent area necessary for the proper appreciation or use thereof, deemed worthy of preservation by reason of value to the Town of Talking Rock, State of Georgia, or local region, for one or more of the following reasons:

- (1) it is an outstanding example of a structure representative of its era;
- (2) it is one of the few remaining examples of past architectural style;
- (3) it is a place or structure associated with an event or person of historic or cultural significance to the Town of Talking Rock, State of Georgia, or the region.

b. Boundary Description: Boundaries shall be clearly defined for individual properties on tax maps and located on the Official Zoning Map, or, in the absence of zoning, on an official map designated as a public record.

4. General Matters Affecting Designation of Both Historic Districts and Landmarks.

a. Application for Designation of Historic District or Landmark:

- (1) Historic District - An historical society, neighborhood association, or group of property owners may apply for designation.
- (2) Landmark Structure - An historical society or property owner may apply for designation.

b. Required Public Hearings: The Commission and the local governing body shall hold a Public Hearing on the proposed ordinance for designation. Notice of the hearing shall be published in at

least three (3) consecutive issues in the legal organ of the Town of Talking Rock, and written notice of the hearing shall be mailed by the commission to all owners and occupants of such properties. All such notices shall be published or mailed not less than (10) nor more than twenty (20) days prior to date set for the Public Hearing. A letter sent via the United States Mail to the Last-known owner of the property shall constitute legal notification under this Ordinance.

c. Notification of Property Owners of Proposed Designation: Any ordinance designating any property or district as Historic shall describe each property to be designated, set forth the name(s) of the owner(s) of the designated property or properties, and require that a Certificate of Appropriateness be obtained from the Historic Preservation Commission prior to any material change in appearance of the designated property.

d. Requirements Regarding District Boundaries: Any ordinance designating any property or district as Historic shall require that the designated property or district be shown on the Official Zoning Map, or other designated map in the absence of zoning, of the Town of Talking Rock and kept as a public record to provide notice of such designation.

e. Notification of Historic Preservation Section: Prior to designating any property or district as Historic, the Commission must submit a report on the historic, cultural, architectural, or aesthetic significance of each place, district, site, building/structure, or work of art, to the Historic Preservation Section of the Department of Natural Resources; thirty (30) days will be allowed to prepare written comments.

f. Ordinance for Designation Announcement: A decision to accept or deny the ordinance for designation shall be made within fifteen (15) days following the Public Hearing, and shall be in the form of a resolution to the City Council.

g. Notification of Adoption of Ordinance for Designation: Within thirty (30) days immediately following the adoption of the ordinance for designation, the owners and occupants of each designated historic property, and the owners and occupants of each structure, site, or work of art located within a designated historic district shall be given written notification of such designation by the City Council; which notice shall apprise said owners and occupants of the necessity of obtaining a Certificate of Appropriateness prior to undertaking any material change in appearance of the historic property designated or within the historic district designated.

h. Notification of Other Agencies Regarding Designation: The Commission shall notify all necessary agencies within the Town of Talking Rock of the ordinance for designation, including the local historical organization.

i. Moratorium on Applications for Alteration or Demolition while Ordinance for Designation is Pending: If an ordinance for designation is being considered, the commission shall have the power to freeze the status of the involved property.

j. Authority to Amend or Rescind Designation: The commission has the authority to amend and/or rescind the designation if necessary. (ord. of 3-26-1996)

Sec. 3-3-t Application to Preservation Commission for Certificate of Appropriateness

1. Approval of Alterations or New Construction in Historic Districts of Involving Landmarks. After the designation by ordinance of an historic property or of an historic district, no material change in the appearance of such historic property, or of a structure, site, or work of art within such historic district, shall be made or be permitted to be made by the owner or occupant thereof, unless or until application for a Certificate of Appropriateness has been submitted to and approved by the Commission.

2. Approval of New Construction within Designated Districts. The Commission shall issue Certificates of Appropriateness to new structures constructed within designated historic districts. These structures shall conform in design, scale, building materials, setback, and landscaping to the character of the district specified in the Commission's Design Guidelines.

3. Guidelines and Criteria for Certificates of Appropriateness. When considering applications for Certificates of Appropriateness to existing buildings, the Secretary of the Interior's "Standards of rehabilitation" shall be used as a guideline along with any other criteria adopted by the Commission.

4. Submission of Plans to Commission, an application for Certificate of Appropriateness shall be accompanied by such drawings, photographs, or plans, as may be required by the Commission.

5. Acceptable Commission Reaction to Application for Certificate of Appropriateness.

a. The Commission shall approve the Application and issue a Certificate of Appropriateness if it finds that the proposed material change(s) in the appearance would not have a substantial adverse effect on the aesthetic, historic, or architectural significance and value of the historic property or the historic district. In making this determination, the Commission shall consider, in addition to any other pertinent factors, the historical and architectural value and significance, architectural style, general design arrangement, texture, and material of the architectural features involved, and the relationship thereof to the exterior architectural style, and pertinent features of the other structures in the immediate neighborhood.

b. The commission shall deny a Certificate of Appropriateness if it finds that the proposed material change(s) in appearance would have substantial adverse effects on the aesthetic, historic or architectural significance and value of the historic property or the historic district.

6. Public Hearings on Applications for Certificates of Appropriateness, Notices, and Right to be Heard. At least seven (7) days prior to review of a Certificate of Appropriateness, the commission shall take such action as may reasonably be required to inform the owners of any property likely to be affected by reason of the application, and shall give applicant and such owners an opportunity to be heard. In cases where the Commission deems it necessary, it may hold a public hearing concerning the application.

7. Interior Alteration. In its review of applications for Certificates of Appropriateness, the Commission shall not consider interior arrangement or use having no effect on exterior architectural features.

8. Technical Advice. When dealing with difficult technical questions, the Commission shall have the power to seek expert advice.

9. Deadline for Approval or Rejection of Application for Certificate of Appropriateness.

a. The commission shall approve or reject an application for a Certificate of Appropriateness within not more than forty-five (45) days after the filing thereof by the owner or occupant of an historic property, or of a structure, site, or work of art located within an historic district. Evidence of approval shall be by a Certificate of Appropriateness issued by the Commission.

b. Failure of the Commission to act within said forty-five (45) days shall constitute approval, and no other evidence of approval shall be needed.

10. Necessary Actions to be Taken by Commission upon Rejection of Application for Certificate of Appropriateness.

a. In the event the commission rejects an application, it shall state its reasons for doing so, and shall transmit a record of such actions and reasons, in writing, to the applicant. The commission may suggest alternative courses of action it thinks proper if it disapproves of the application submitted. The applicant, if he or she so desires, may make modifications to the plans and may resubmit the application at any time after doing so.

b. In cases where the application covers a material change in the appearance of a structure which would require the issuance of a building permit, the rejection of the application for a Certificate of Appropriateness by the Commission shall be binding upon the building inspector or other administrative officer charged with issuing building permits and, in such a case, no building permit shall be issued.

11. Undue Hardship. Where, by reason of unusual circumstances, the strict application of any provision of this Ordinance would result in the exceptional practical difficulty or undue hardship upon any owner of a specific property, the Commission, in passing upon applications, shall have the power to vary or modify strict adherence to said provisions, or to interpret the meaning of said provisions, so as to relieve such difficulty or hardship; provided such variances, modifications, or interpretations shall remain in harmony with the general purpose and intent of said provisions, so that the architectural or historical integrity, or character of the property, shall be conserved and substantial justice done. In granting variances, the Commission may impose such reasonable and additional stipulations and conditions as will, in its judgment, best fulfill the purpose of this Ordinance. An undue hardship shall be a situation not of the person's own making, which is : a) a problem unique to a specific property, or b) in order to comply with this Ordinance, the person will conflict with another Ordinance of the Town.

12. Requirement of Conformance with Certificate of Appropriateness. Work not in accordance with an issued Certificate of Appropriateness shall be halted before it is completed.

13. Certificate of Appropriateness Void if Construction not Commenced. A Certificate of Appropriateness shall become void unless construction is commenced within six (6) months of date of issuance. Certificates of Appropriateness shall be issued for a period of eighteen (18) months and are renewable.

14. Recording of Applications for Certificate of Appropriateness. The Commission shall keep a public record of all applications for Certificates of Appropriateness, and of all the Commission's proceedings in connection with said application.

15. Acquisition of Property. The Commission may, where such action is authorized by the local governing body, and is reasonably necessary or appropriate for the preservation of a unique historic property, enter into negotiations with the owner for the acquisition by gift, purchase, exchange, or otherwise, of the property or any interest therein.

16. Demolition or Relocation Criteria.

a. Whenever a property owner shows that a building classified as Historic is incapable of earning an economic return on its value, as appraised by a qualified real estate appraiser, and the Commission fails to approve the issuance of a Certificate of Appropriateness, such building may be demolished; provided, however, that before a demolition permit is issued, notice of proposed demolition shall be given as follows:

- (1) for buildings rated Historic - Six (6) months
- (2) for buildings rated Non-Historic - Two (2) months
- (3) for buildings rated Intrusion - No delay

b. Notice shall be posted on the premises of the building or structure proposed for demolition in a location clearly visible from the street. In addition, notice shall be published in a newspaper of general local circulation at least three times prior to the date of the permit, and the first notice of which shall be published no more than fifteen (15) days after the application for a permit to demolish is filed. The purpose of this section is to further the purposes of this Ordinance by preserving historic buildings which are important to the education, culture, traditions, and the economic values of the Town and to give the Town's interested persons, historical societies, or organizations the opportunity to acquire or to arrange for the preservation of such buildings. The Commission may at any time during such stay approve a Certificate of Appropriateness, in which event a permit shall be issued without further delay. (ord. of 3-26-1996)

Sec. 3-3-6. Maintenance of Historic Property.

1. Ordinary Repair. Ordinary maintenance or repair of any exterior architectural feature in or on an historic property, that does not involve a material change in design, material, or outer appearance thereof, is excluded from review.

2. Conformity to Existing Building Codes. Nothing in this Ordinance shall be construed as to exempt property owners from complying with existing City or County building codes, nor to prevent any property owner from making any use of his property not prohibited by other statutes, ordinances, or regulations. (ord. of 3-26-1996)

Sec. 3-3-7. Penalty Provisions.

Violations of any provisions of this Ordinance shall be punished in the same manner as provided by charter or local law for punishment of violations of other validly-enacted ordinances of the Town. (ord. of 3-26-1996)

Sec. 3-3-8. Severability.

In the event that any section, subsection, sentence, clause, or phrase of this Ordinance shall be declared or adjudged invalid or unconstitutional, such adjudication shall in no manner affect the other sections, sentences, clauses, or phrases of this Ordinance, which shall remain in full force and effect, as if the section, subsection, sentence, clause, or phrase so declared or adjudged invalid or unconstitutional were not originally a part thereof. (ord. of 3-26-1996)

Sec. 3-3-9. Repealer.

All ordinances and parts of ordinances in conflict with this Ordinance are hereby repealed.

(ord. of 3-26-1996)

Sec. 3-3-10. Effective Date.

This Ordinance shall become effective upon its approval by the Town of Talking Rock.

(ord. of 3-26-1996)

Sec. 3-3-11. Definitions.

1. "Certificate of Appropriateness." Means a document evidencing approval by the Historic Preservation Commission of an application to make a material change in the appearance of a designated historic property or of a property located within a designated historic district.

2. "Exterior Architectural Features." Means the architectural style, general design, and general arrangement of the exterior of a building or other structure, including but not limited to the kind or texture of the building material and the type and style of all windows, doors, signs and other appurtenant architectural fixtures, features, details or elements relative to the foregoing.

3. "Exterior Environmental Features." Means all those aspects of the landscape or the development of the site which affect the historical character of the property.

4. "Historic District." Means a geographically definable area which contains structures, sites, works of art or a combination thereof which exhibit a special historical, architectural, or environmental character as designated by Mayor and Council.

5. "Historic Property." Means an individual structure, site, or work of art which exhibits a special historical, architectural, or environmental character as designated by Mayor and Council.

6. "Material Change in Appearance." Means a change that will affect either the exterior architectural or environmental features of an historic property or any structure, site or work of art within an historic district, and may include any one or more of the following:

- a. A reconstruction or alteration of the size, shape, or facade of an historic property, including any of its architectural elements or details;
- b. Demolition of an historic structure;
- c. Commencement of excavation for construction purposes;
- d. A change in the location of advertising visible from the public right-of-way;
- e. The erection, alteration, restoration or removal of any building or other structure within an historic property or district, including walls, fences, steps and pavements, or other appurtenant features.

(ord. of 3-26-1996)

Chapter 4

Flood Prevention

Sec. 3-4-1 Statutory Authorization

The Legislature of the State of Georgia has in O.C.G.A. § 12-7-4 et seq., delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the Town of Talking Rock, of Pickens County, GEORGIA, does adopt this Flood Prevention Ordinance. (ord. of 3-26-1996), O.C.G.A. § 12-7-4 et seq.

Sec. 3-4-2 Findings of Fact

1. The flood hazard areas of the Town of Talking Rock, GEORGIA, are subject to the periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood relief and protection, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.
2. These flood losses are caused by the occupancy in flood hazard areas of uses vulnerable to floods, which are inadequately elevated, flood-proofed, or otherwise unprotected from flood damages, and by the cumulative effect of the obstructions on the floodplains causing increases in flood heights and velocities.

(ord. of 3-26-1996)

Sec. 3-4-3 Statement of Purpose

It is the purpose of this ordinance to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

1. require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
2. restrict or prohibit uses which are dangerous to health, safety and property due to water or erosion hazards, or which increase flood heights, velocities, or erosion;
3. control the alteration or natural floodplains, stream channels, and natural

protective barriers which are involved in the accommodation of flood waters;

4. control filling, grading, dredging and other development which may increase flood damage or erosion, and;
5. prevent or regulate the construction of flood barriers which will unnaturally divert flood waters of which may increase flood hazards to other lands.

(ord. of 3-26-1996)

Sec. 3-4-4 Objective

The objectives of this ordinance are:

- (1) to protect human life and health;
- (2) to minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in floodplains;
- (3) to help maintain a stable tax base by providing for the sound use and development of flood blight areas,
- (4) to minimize expenditure of public money for costly flood control projects;
- (5) to minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (6) to minimize prolonged business interruptions, and;
- (7) to insure that potential home buyers are notified that property is in a flood area.

(ord. of 3-26-1996)

Sec. 3-4-5 Lands to which this ordinance applies

This ordinance shall apply to all areas of special flood hazard within the jurisdiction of Town of Talking Rock, GEORGIA. (ord. of 3-26-1996)

Sec. 3-4-6 Establishment of development permit

A Development Permit shall be required in conformance with the provisions of this ordinance prior to the commencement of any development (see definition) activities. (ord. of 3-26-1996)

Sec. 3-4-7 Compliance

No structure or land shall hereafter be located, extended, converted or altered without full compliance with the terms of this ordinance and other applicable regulations. (ord. of 3-26-1996)

Sec. 3-4-8 Abrogation and greater restrictions

This ordinance is not intended to repeal, abrogate, or impair any existing ordinance, easements, covenants, or deed restrictions. However, where this ordinance and other conflict or overlap, whichever imposes the more stringent restrictions shall prevail. (ord. of 3-26-1996)

Sec. 3-4-9 Interpretation

In the interpretation and application of this ordinance all provisions shall be: (1) considered as minimum requirements; (2) liberally construed in favor of the governing body, and; (3) deemed neither to limit nor repeal any other powers granted under state statutes. (ord. of 3-26-1996)

Sec. 3-4-10 Warning and Disclaimer of Liability

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur; flood heights may be increased by man-made or natural causes. This ordinance does not imply that land outside the areas of special flood hazard or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of Town of Talking Rock by any officer or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made thereunder. (ord. of 3-26-1996)

Sec. 3-4-11 Penalties for Violation

Violation of the provisions of this ordinance or failure to comply with any of its requirements, including violation of the conditions and safeguards established in connection with grants of variance or special exceptions, shall constitute a misdemeanor. Any person who violates this ordinance or fails to comply with any of its requirements shall, upon conviction thereof, be fined no more than \$10,000.00 or imprisoned for not more than 364 days, or both, and in addition, shall pay all costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the Town of Talking Rock from taking such other lawful actions as is necessary to prevent or remedy any violation. (ord. of 3-26-1996)

Sec. 3-4-12 Administrator

The Mayor or her designated representative is hereby appointed to administer and implement the provisions of this ordinance. (ord. of 3-26-1996)

Sec. 3-4-13 Permit procedures

Applications for a Development Permit shall be made to the Mayor prior to any development activities, and include, but not be limited to the following: plans in duplicate drawn to scale showing the elevations of the area in question, and the natural location, dimensions of existing or proposed structures, earthen fill, storage of materials or equipment, and drainage facilities.

Specifically, the following information is required:

1. Application Stage.
 - A. Elevation in relation to mean sea level (or highest adjacent grade) of lowest floor, including basement, of all proposed structures;
 - B. Elevation in relation to mean sea level to which any non-residential structure will be floodproofed;
 - C. Certificate from a registered professional engineer or architect that any non-residential flood-proofed structure will meet the flood-proofing criteria in Article 4, Section B (2);
 - D. Description of the extent to which any watercourse will be altered or relocated as a result of a proposed development, and;
2. Construction Stage:

For all new construction and substantial improvements, permittee shall provide regulatory floor elevation or flood-proofing certification after the lowest floor of flood-proofing is completed. Upon placement of the lowest floor of after flood-proofing for non-residential structures, it shall be the duty of the permit holder to submit to the Mayor an as built certification of elevation of the lowest floor or flood-proofed elevation in relation to mean sea level or highest adjacent grade, whichever is applicable. Lowest floor certification shall be prepared by or under the direct supervision of a registered land surveyor or professional engineer and certified by same. When flood-proofing is utilized for a non-residential structure, said certification shall be prepared by or under the direct supervision of a professional engineer or architect certified by same. Any work undertaken prior to submission of these certifications shall be at the permit holder's risk.

The Mayor shall review the above referenced elevation certification data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further progressive work being allowed to proceed. Failure to submit certification of failure to make said corrections required hereby, shall be cause to issue a stop-work order for the project.

(ord. of 3-26-1996)

Sec. 3-4-14 Duties and responsibilities of the administrator

Duties of the Mayor shall include, but shall not be limited to:

1. Review all development permits to assure that the permit requirements of this ordinance have been satisfied:
2. When Base Flood Elevation data or floodway data have not been provided accordance with Section 3-4-6, then the Mayor shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a Federal, state or other source, in order to administer this Article.

3. Verify and record the actual elevation in relation to mean sea level (or highest adjacent grade) of the lowest floor, including basement, of all new or substantially improved structures in accordance with Section 3-4-13.
4. Verify and record the actual elevation in relation to mean sea level to which any new or substantially improved structures have been flood-proofed, in accordance with Section 3-4-13.
5. When flood-proofing is utilized for a structure, Mayor shall obtain design certification from a registered professional engineer or architect in accordance with Section 3-4-13 and Section 3-4-16.
6. Notify adjacent communities and the Georgia Department of Natural Resources prior to any alteration or relocation of a watercourse and submit evidence of such notification to the Federal Emergency Management Agency.
7. For any altered or relocated watercourse, submit engineering data/analysis within six (6) months to the Federal Emergency Management Agency to ensure accuracy of community flood maps. Assure flood carrying capacity of any altered or relocated watercourse is maintained.
8. Where interpretation is needed as to the exact location of boundaries of the areas of Special Flood Hazard (for example, where there appears to be a conflict between a mapped boundary and actual field conditions) the Mayor shall make the necessary interpretation. Any person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this article.
9. Advise permittee that additional Federal or state permits may be required, and if specific Federal or state permit requirements are known, require that copies of such permits be provided and maintained on file.
10. All records pertaining to the provisions of this ordinance shall be maintained in the office of the Mayor and shall be open for public inspection.

(ord. of 3-26-1996)

Sec. 3-14-15 General standards for flood hazard reductions

In all areas of special flood hazard the following provisions are required:

1. New construction and substantial improvements of existing structures shall be anchored to prevent flotation, collapse or lateral movement of the structure:
2. New construction and substantial improvements of existing structures shall be constructed with materials and utility equipment resistant to flood damage:
3. New construction and or substantial improvements of existing structures shall be constructed by methods and practices that minimize flood damage:
4. All heating and air conditioning equipment and components, all electrical, ventilation, plumbing, and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the

components during conditions or flooding.

5. Manufactured homes shall be anchored to prevent flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This standard shall be in addition to and consistent with applicable state requirements for resisting wind forces.
6. New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters:
7. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into systems and discharges from the systems into flood waters;
8. On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding, and:
9. Any alteration, repair, reconstruction or improvement to a structure which is not compliant with the provisions of this ordinance, shall be undertaken only if the non-conformity is not furthered, extended or replaced.

(ord. of 3-26-1996)

Sec. 3-4-16 Specific standards for flood hazard reductions

In all areas of Special Flood Hazard where base flood elevation data have been provided, as set forth in Section 3-4-6 or 3-4-7, the following provisions are required:

1. Residential Construction. New construction or substantial improvement of any residential structure or manufactured home shall have the lowest floor, including basement, elevated no lower than one foot above the base flood elevation. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate the unimpeded movements of flood waters shall be provided in accordance with standards of Section 3-4-16.4.
2. Non-Residential Construction. New construction or substantial improvement of any commercial, industrial, or non-residential structure or manufactured home shall have the lowest floor, including basement, elevated no lower than one foot above the base flood elevation. Structures located in AE or AH zones, may be flood-proofed in lieu of elevation provided that all areas of the structure below the base flood elevation, plus one (1) foot, together with attendant utility and sanitary facilities, are designed to be water tight, with walls substantially impermeable to the passage of water, and structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. A registered professional engineer or architect shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions above, and shall provide such certification to the official as set forth above and Section 3-4-14.4-5.
3. Building Standards for Streams Without Established Base Flood Elevations and/or Floodways.

Located within the areas of special flood hazard established in Section 3-4-6 where streams exist but no base flood data have been provided (A-Zones).

OR where base flood data have been provided without floodways, the following provisions apply:

- A. When base flood elevation data or floodway data have not been provided in accordance with Section 3-4-6, then the Mayor shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a Federal, state, or other source, in order to administer the provisions of Article 4. If data are not available from these sources, then the following provisions (b&c) shall apply:
 - B. No encroachments, including structures or fill material, shall be located within an area equal to the width of the stream or twenty feet whichever is greater, measured from the top of the stream bank, unless certification by a registered professional engineer is provided demonstrating that such encroachment shall not result in any increase in flood levels during the occurrence of the base flood discharge.
 - C. In special flood hazard areas without base flood elevation data, new construction and substantial improvements of existing structures shall have the lowest floor of the lowest enclosed area (including basement) elevated no less than three (3) feet above the highest adjacent grade at the building site. The mayor shall record the lowest floor elevation level and the record shall become a permanent part of the permit file.
4. Elevated Buildings. New construction or substantial improvements of existing structures that include any fully enclosed area located below the base flood elevation formed by foundation and other exterior walls shall be designed so as to be an unfinished or flood resistant enclosure. The enclosure shall be designed to equalize hydrostatic flood forces on exterior walls by allowing for the automatic entry and exit of floodwaters.
- A. Designs for complying with this requirement must either be certified by a professional engineer or architect or meet the following minimum criteria:
 - (1) Provide a minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;
 - (2) The bottom of all openings shall be no higher than one foot above grade: and.
 - (3) Openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwater in both directions.
 - B. So as not to violate the lowest floor criteria of this ordinance, the unfinished or flood resistant enclosure shall only be used for parking of vehicles, limited storage of maintenance equipment used in connection with the premises, or entry to the elevated area, and
 - C. The interior portion of such enclosed area shall not be partitioned or finished into separate rooms.

5. Standards for Manufactured Homes and Recreational Vehicles

- A. AH manufactured homes placed or substantially improved on individual lots or parcels, in new or substantially improved manufactured home parks or subdivisions, in expansions to existing manufactured home parks or subdivisions, or on a site in an existing manufactured home park or subdivision where a manufactured home has incurred "substantial damage" as the result of a flood, must have the lowest floor including basement, elevated no lower than one foot above the base flood elevation.
- B. Manufactured homes placed or substantially improved is an existing manufactured home park or subdivision may be elevated so that either:
 - 1. The lowest floor of the manufactured home is elevated no lower than one foot above the level of the base flood elevation, or
 - 2. The manufactured home chassis is elevated and supported by reinforced piers (or other foundation elements of at least an equivalent strength) of no less than 36 inches in height above grade.
- C. All manufactured homes must be securely anchored to the adequately anchored foundation system to resist flotation, collapse and lateral movement, (see also Section 3-4-15.5)
- D. All recreational vehicles placed on sites must either:
 - 1. Be fully licensed and ready for highway use, (a recreational vehicle is ready for highway use if it is licensed, on its wheels or jacking system, attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached structures or additions), or
 - 2. The recreational vehicle must meet all the requirements for "New Construction", including the anchoring and elevation requirements of Article 4, Section B (5) (a) and (c), above.

6. Floodways. Located within areas of Special Flood Hazard established in Section 3-4-6m are areas designated as floodways. A floodway may be an extremely hazardous area due to velocity flood waters, debris or erosion potential. In addition, the area must remain free of encroachment in order to allow for the discharge of the base flood without increased flood heights. Therefore, the following provisions shall apply:

- A. Encroachments are prohibited, including earthen fill, new construction, substantial improvements or other development within the regulatory floodway. Development may be permitted however, provided it is demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the encroachment shall not result in any increase in flood levels or floodway widths during a base flood discharge. A registered professional engineer shall provide supporting technical data and certification thereof.

- B. Only if Section 3-4-16.6 is satisfied, then any new construction or substantial improvements shall comply with all other applicable flood hazard reduction provisions of Section 3-4-18.

(ord. of 3-26-1996)

Sec. 3-4-17 Standards for subdivision proposals

1. All subdivision proposals shall be consistent with the need to minimize flood damage;
2. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage;
3. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards, and;
4. Base flood elevation data shall be provided for subdivision proposals and all other proposed development, including manufactured home parks and subdivisions, greater than fifty (50) lots or five (5) acres, whichever is less.

(ord. of 3-26-1996)

Sec. 3-4-18 Variance procedures

1. The (appointed board) City Council shall hear and decide appeals or requests for Variances from the requirements of this ordinance.
2. The board shall hear and decide appeals when it is alleged an error in any requirement, decision, or determination is made by the Mayor in the enforcement or administration of this ordinance.
3. Any person aggrieved by the decision of the City Council may appeal such decision to the Pickens County Superior Court.
4. Variances may be issued for the repair or rehabilitation of "historic structures" upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as an "historic structure" and the variance is the minimum to preserve the historic character and design of the structure.
5. Variances may be issued for development necessary for the conduct of a functionally dependent use. provided the criteria of this Article are met, no reasonable alternative exists, and the development is protected by methods that minimize flood damage during the base flood and create no additional threats to public safety.
6. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
7. In reviewing such requests, the City Council shall consider all technical evaluations, relevant factors, and all standards specified in this and other sections of this ordinance.
8. Conditions for Variances:
 - A. A variance shall be issued ONLY when there is:

- (1) a finding of good and sufficient cause;
 - (2) A determination that failure to grant the variance would result in exceptional hardship, and;
 - (3) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
- B. The provisions of this Ordinance are minimum standards for flood loss reduction, therefore any deviation from the standards must be weighed carefully. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief; and in the instance of a historic structure, a determination that the variance is the minimum necessary so as not to destroy the historic character and design of the building;
- C. Any applicant to whom a variance is granted shall be given written notice specifying the difference between the base flood elevation and the elevation of the proposed lowest floor and stating that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor evaluation.
- D. The Mayor shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency upon request.
9. Upon consideration of the factors listed above and the purposes of this ordinance, the City Council may attach such conditions to the granting of variances as it deems necessary to further the purpose of this ordinance..
(ord. of 3-26-1996)

Sec. 3-4-19 Definitions under this article

Unless specifically defined below, words or phrases used in this ordinance shall be interpreted so as to give them the meaning they have in common usage and to give this ordinance its most reasonable application.

"Addition (to an existing building)" mean any walled and roofed expansion to the perimeter of" a building in which the addition is connected by a common load-bearing wall other than a fire wall. Any walled and roofed addition which is connected by a fire wall or is separated by an independent perimeter load-bearing wall shall be considered "New Construction".

"Appeal" means a request for the review of the City Council's interpretation of any provision of this ordinance or a request for variance.

"Area of shallow flooding" means a designated AO or AH Zone on a community's Flood Insurance Rate Map (FIRM) with base flood depths from one to three feet, and/or where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident.

"Area of special flood hazard" is the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year.

"Base flood" means the flood having a one percent chance of being equaled or exceeded in any given year.

"Basement" means that portion of a building having its floor subgrade (below ground level) on all sides.

"Building" means any structure built for support, shelter, or enclosure for any occupancy or storage.

"Development" means any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining dredging, filling, grading, paving, excavating, drilling operations, and permanent storage of materials or equipment.

"Elevated building" means a non-basement building built to have the lowest floor elevated above the ground level by means of fill, solid foundation perimeter walls, pilings, columns, piers or shear walls.

"Existing Construction" Any structure for which the "start of construction" commenced before March 20, 1996. [i.e., the effective date of the FIRST floodplain management code or ordinance adopted by the community as a basis for that community's participation in the National Flood Insurance Program (NFIP)].

"Existing manufactured home park or subdivision" means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which manufactured homes are to be affixed (including at a minimum the installation of utilities, the construction of streets, and final site grading or the pouring of concrete pads) is completed before March 20, 1996 [i.e., the effective date of the FIRST floodplain management regulations adopted by a community].

"Expansion to an existing manufactured home park or subdivision" means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed, including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads.

"Flood" or "flooding" means a general temporary condition of partial or complete inundation of normally dry land areas from:

- (a.) the overflow of inland or tidal waters; or
- (b.) the unusual and rapid accumulation or runoff of surface waters from any source.

"Flood Hazard Boundary Map (FHBM)" means an official map of a community, issued by the Federal Insurance Administration, where the boundaries of areas of special flood hazard have been defined as Zone A.

"Flood Insurance Rate Map (FIRM)" means an official map of a community, issued by the Federal Insurance Administration, delineating the areas of special flood hazard and/or risk premium zones applicable to the community.

"Flood Insurance Study" the official report by the Federal Insurance Administration evaluating flood hazards and containing flood profiles and water surface elevation of the base flood.

"Floodplain" means any land area susceptible to Hooding.

"Floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

"Highest adjacent grade" means the highest natural elevation of the ground surface, prior to construction, adjacent to the proposed foundation of a building.

"Historic Structure" means any structure that is;

- a. Listed individually in the National Register of Historic Places (a listing maintained by the U.S. Department of Interior) or preliminary determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register:
- b. Certified or preliminary determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminary determined by the Secretary to qualify as a registered historic district:
- c. Individually listed on a state inventory of historic places and determined as eligible by states with historic preservation programs which have been approved by the Secretary of the Interior: or
- d. Individually listed on a local inventory of historic places and determined as eligible by the communities with historic preservation programs that have been certified either:
 1. By an approved state program as determined by the Secretary of the Interior, or
 2. Directly by the Secretary of the Interior in states without approved programs.

"Lowest floor" means the lowest enclosed area, including basement. An unfinished or flood resistant enclosure, used solely for parking of vehicles, building access, or storage, in an area other than a basement, is not considered a building's lowest floor, provided that such an enclosure is not built so as to render the structure in violation of other provisions of this code.

"Manufactured home" means a building, transportable in one or more sections, built of a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term also includes park trailers, travel trailers, and similar transportable structures placed on a site for 180 consecutive days or longer and intended to be improved property.

"Mean Sea Level" means the average height of the sea for all stages of the tide. It is used as a reference for establishing various elevations within the floodplain. For purposes of this ordinance, the term is synonymous with National Geodetic Vertical Datum (NGVD).

"National Geodetic Vertical Datum (NGVD)" as corrected in 1929 a vertical control used as a reference for establishing varying elevations within the floodplain.

"New Construction" means ANY structure (see definition) for which the "start of construction" commenced after March 20, 1996 and includes any subsequent improvements to the structure, [i.e.. the effective date of the FIRST floodplain management ordinance adopted by the community as a basis for community participation if the (NFIP)].

"New manufactured home park or subdivision" means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after March 20, 1996. [i.e.. the effective date of the first floodplain management regulations adopted by a community].

"Recreational vehicle" means a vehicle which is:

- a. built on a single chassis;
- b. 400 square feet or less when measured at the largest horizontal projection;
- c. designed to be self-propelled or permanently towable by a light duty truck; and
- d. designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

"Start of Construction" means the date the development permit was issued, provided the actual start of construction, repair, reconstruction, or improvement was within 180 days of the permit date. The actual start means the first placement of permanent construction of the structure such as the pouring of slabs or footings, installation of piles, construction of columns, or any work beyond the stage of excavation, and includes the placement of a manufactured home on a foundation or the erection of temporary forms; nor does it include the installation of the property of buildings appurtenant to the permitted structure, such as garages or sheds not occupied as dwelling units or part of the main structure. (NOTE: accessory structures are NOT exempt from any ordinance requirements) For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

"Structure" means a walled and roofed building that is principally above ground, a manufactured home, a gas or liquid storage tank.

"Substantial damage" means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

"Substantial improvement" means any combination of repairs, reconstruction, alteration, or improvements to a building, taking place during a 5 year period, in which the cumulative cost equals or exceeds fifty percent of the market value of the structure prior to the improvement. The market value of the building should be (1) the appraised value of the structure prior to the start of the initial repair or improvement, or (2) in the case of damage, the value of structure prior to the damage occurring. This term includes structures which have incurred "substantial damage", regardless of the actual amount of repair work performed.

For the purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the building. The term does not, however, include those improvements of a building required to comply with existing health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions, which have been pre-identified by the Code Enforcement Official, and not solely triggered by an improvement or repair project.

"Substantially improved existing manufactured home parks or subdivision"

is where the repair, reconstruction, rehabilitation or improvement of the streets, utilities and pads equals or exceeds 50 percent of the value of the streets, utilities and pads before the repair, reconstruction or improvement commenced.

"Variance" is a grant of relief from the requirements of this ordinance which permits construction in a manner otherwise prohibited by this ordinance.

(ord. of 3-26-1996)

Sec. 3-4-20 Severability

If any section, clause, sentence, or phrase of the Article is held to be invalid or unconstitutional by any court of the competent jurisdiction, then said holding shall in no way effect the validity of the remaining portions of this Article. (ord. of 3-26-1996)

Chapter 5

ABATEMENT OF NUISANCES

Sec. 3-5-1 Definitions for use in Chapter 5.

As used in Chapter 5, the term:

- (1) "Closing" means securing and causing a dwelling, building, or structure to be vacated.
- (2) "Drug crime" means an act which is a violation of Article 2 of Chapter 13 of Title 16 of the Official Code of Georgia, known as the "Georgia Controlled Substances Act."
- (3) "Dwellings, buildings, or structures" means any building or structure or part thereof used and occupied for human habitation or commercial, industrial, or business uses, or intended to be so used, and includes any outhouses and appurtenances belonging thereto or usually enjoyed therewith and also includes any building or structure of any design. As used in Chapter 5, the term "dwellings, buildings, or structures" shall not mean or include any farm, any building or structure located on a farm, or any agricultural facility or other building or structure used for the production, growing, raising, harvesting, storage, or processing of crops, livestock, poultry, or other farm products.
- (4) "Governing body" means the Town Council of Talking Rock.
- (5) "Municipality" means the Town of Talking Rock.
- (6) "Owner" means the holder of the title in fee simple and every mortgagee of record.
- (7) "Parties in interest" means persons in possession of said property and all individuals, associations, and corporations who have interest of record in the county where the property is located in a dwelling, building, or structure, including executors, administrators, guardians, and trustees.
- (8) "Public authority" means any housing authority or any officer who is in charge of any department or branch of the government of the Town of Talking Rock relating to health, fire, or building regulations or to other activities concerning dwellings, buildings, or structures in the municipality.
- (9) "Public Health Officer" means the officer or officers who are authorized under this Chapter to exercise the powers prescribed by this Chapter or any agent of such officer or officers.
- (10) "Repair" means closing a dwelling, building, or structure or the cleaning or removal of debris, trash, and other materials present and accumulated which create a health or safety hazard in or about any dwelling, building, or structure.

(ord. of 3-26-1996)

Sec. 3-5-2 Finding of Need; Abatement Process.

(a) It is found and declared that in the Town of Talking Rock there is the existence or occupancy of dwellings or other buildings or structures which are unfit for human habitation or for commercial, industrial, or business occupancy or use and are inimical to the welfare and are dangerous and injurious to the health, safety, and welfare of the people of this state: and that a public necessity exists for the repair, closing, or demolition of such dwellings, buildings, or structures. It is found and declared that in the Town of Talking Rock there is in existence a condition or use of real estate which renders adjacent real estate unsafe or inimical to safe human habitation, such use is dangerous and injurious to the health, safety, and welfare of the people of this state and a public necessity exists for the repair of such condition or the

cessation of such use which renders the adjacent real estate unsafe or inimical to safe human habitation. Whenever the Town Council finds that there exist in the Town dwellings, buildings, or structures which are unfit for human habitation or for commercial, industrial, or business uses due to dilapidation and defects increasing the hazards of fire, accidents, or other calamities; lack of adequate ventilation, light, or sanitary facilities; or other conditions rendering such dwellings, buildings, or structures unsafe or unsanitary, or dangerous or detrimental to the health, safety, or welfare, or otherwise inimical to the welfare of the residents of such county or municipality, or vacant, dilapidated dwellings, buildings, or structures in which drug crimes are being committed, per O.C.G.A. § 41-2-7, power is conferred upon the Town of Talking Rock to exercise its police power to repair, close, or demolish the aforesaid dwellings, buildings, or structures in the manner provided in this under this Chapter and Code Sections 41 -2-8 through 41-2-17 of the Official Code of Georgia.

(b) All the provisions of this Chapter including method and procedure may also be applied to private property where an accumulation of weeds, trash, junk, filth, and other unsanitary or unsafe conditions shall create a public health hazard or a general nuisance to those persons residing in the vicinity. A finding by any governmental health department, health officer, or building inspector that such property is a health or safety hazard shall constitute prima-facie evidence that said property is in violation of this Chapter and Code Sections 41-2-8 through 41 -2-17 of the Official Code of Georgia.

(c) As used in this Code section, the term "resident" means any person residing in the affected jurisdiction on or before the date on which the alleged nuisance arose.

(d) The Town Council shall appoint, for a term of four (4) years, a Public Health Officer to exercise the powers prescribed by this Chapter;

(e) That whenever a request is filed with the public health officer by a public authority or by at least five residents of the charging that any dwelling, building, or structure is unfit for human habitation or for commercial, industrial, or business use or whenever it appears to the public health officer (on his own motion) that any dwelling, building, or structure is unfit for human habitation or is unfit for its current commercial, industrial, or business use or is vacant, dilapidated, and being used in connection with the commission of drug crimes, the public health officer shall, if his preliminary investigation discloses a basis for such charges, issue and cause to be served upon the owner of and any parties in interest in such dwelling, building, or structure a complaint stating the charges in that respect and containing a notice that a hearing will be held before the public officer (or his designated agent) at a place within the county or municipality in which the property is located, fixed not less than ten days nor more than 30 days after the serving of said complaint; that the owner and any parties in interest shall be given the right to file an answer to the complaint and to appear in person, or otherwise, and give testimony at the place and time fixed in the complaint; and that the rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the public health officer;

(0 That if, after such notice and hearing, the public health officer determines that the dwelling, building, or structure under consideration is unfit for human habitation or is unfit for its current commercial, industrial, or business use or is vacant, dilapidated, and being used in connection with the commission of drug crimes, he shall state in writing his findings of fact in support of such determination and shall issue and cause to be served upon the owner thereof an order:

(1) If the repair, alteration, or improvement of the said dwelling, building, or structure can be made at a reasonable cost in relation to the value of the dwelling, building, or structure, requiring the owner or parties in interest, within the time specified in the order, to repair, alter, or improve such dwelling, building, or structure so as to render it fit for human habitation or for current commercial, industrial, or business use or to vacate and close the dwelling, building, or structure as a human habitation; or

(2) If the repair, alteration, or improvement of the said dwelling, building, or structure cannot be made at a reasonable cost in relation to the value of the dwelling, building, or structure, requiring the owner or parties in interest, within the time specified in the order, to remove or demolish such dwelling, building, or structure.

In no event shall the governing authority require removal or demolition of any dwelling, building, or structure except upon a finding that the cost of repair, alteration, or improvement thereof exceeds one-half

the value such dwelling, building, or structure will have when repaired to satisfy the minimum requirements of this law;

(g) That, if the owner or parties in interest fail to comply with an order to vacate and close or demolish the dwelling, building, or structure, the public health officer may cause such dwelling, building, or structure to be repaired, altered, or improved or to be vacated and closed or demolished: and that the public health officer may cause to be posted on the main entrance of any building, dwelling, or structure so closed a placard with the following words:

"This building is unfit for human habitation or commercial, industrial, or business use: the use or occupation of this building for human habitation or for commercial, industrial, or business use is prohibited and unlawful.";

(h) That, if the owner fails to comply with any order to remove or demolish the dwelling, building, or structure, the public health officer may cause such dwelling, building, or structure to be removed or demolished; provided, however, that the duties of the public health officer, set forth in paragraph (g) of this section and this paragraph, shall not be exercised until the governing body shall have by ordinance ordered the public health officer to proceed to effectuate the purpose of this Chapter with respect to the particular property or properties which the public health officer shall have found to be unfit for human habitation or unfit for its current commercial, industrial, or business use, which property or properties shall be described in the ordinance;

(i) That the amount of the cost of such vacating and closing or removal or demolition by the public health officer shall be a lien against the real property upon which such cost was incurred. Said lien shall attach to the real property upon the payment of all costs of demolition by the municipality and the filing of an itemized statement of the total sum of said costs by the public health officer in the office of the clerk of the governing body of the municipality on a lien docket maintained by said clerk for such purposes. If the dwelling, building, or structure is removed or demolished by the public health officer he shall sell the materials of such dwellings, buildings, or structures and shall credit the proceeds of such sale against the cost of the removal or demolition and any balance remaining shall be deposited in the superior court by the public health officer, shall be secured in such manner as may be directed by such court, and shall be disbursed by such court to the persons found to be entitled thereto by final order or decree of such court. Nothing in this section shall be construed to impair or limit in any way the power of the municipality to define and declare nuisances and to cause their removal or abatement by summary proceedings or otherwise:

(j) The collection of any amount due on such lien for removal or demolition of dwellings, buildings, or structures shall proceed only in the following manner:

(A) The owner or parties at interest shall be allowed to satisfy the amount due on such lien by paying to the county or municipal corporation, within 30 days after the perfection of said lien, a sum of money equal to 25 percent of the total amount due and by further paying to said county or municipal corporation the remaining balance due on such lien, together with interest at the rate of 7 percent per annum, in three equal annual payments, each of which shall become due and payable on the anniversary date of the initial payment made as hereinabove prescribed:

(B) Should the property upon which such lien is perfected be sold, transferred, or conveyed by the owner or parties at interest at any time prior to the termination of the said three-year period, then the entire balance due on such lien shall be due and payable to the county or municipal corporation; and

(C) Should the amount due on such lien, or any portion thereof, be unpaid after the passage of said three-year period, or upon the occurrence of the contingency provided for in subparagraph (B) of this paragraph, the county or municipal corporation may enforce the collection of any amount due on such lien for alteration, repair, removal, or demolition of dwellings, buildings, or structures in the same manner as provided in O.C.G.A. § 48-5-358 and other applicable state statutes. This procedure shall be subject to the right of redemption by any person having any right, title, or interest in or lien

upon said property, all as provided by Chapter 3 of Chapter 4 of Title 48 of the Official Code of Georgia.
(ord. of 3-26-1996)

Sec. 3-5-3 Determination by public officer that dwelling, building or structure is unfit or vacant, dilapidated and being used in connection with the commission of drug crimes.

(a) The public health officer may determine, under existing ordinances, that a dwelling, building, or structure is unfit for human habitation or is unfit for its current commercial, industrial, or business use if he finds that conditions exist in such building, dwelling, or structure which are dangerous or injurious to the health, safety, or morals of the occupants of such dwelling, building, or structure; of the occupants of neighborhood dwellings, buildings, or structures; or of other residents of such county or municipality. Such conditions may include the following (without limiting the generality of the foregoing):

- (1) Defects therein increasing the hazards of fire, accidents, or other calamities;
- (2) Lack of adequate ventilation, light, or sanitary facilities;
- (3) Dilapidation;
- (4) Disrepair;
- (5) Structural defects; and
- (6) Uncleanliness.

(b) The public health officer may determine, under existing ordinances, that a dwelling, building, or structure is vacant, dilapidated, and being used in connection with the commission of drug crimes upon personal observation or report of a law enforcement agency and evidence of drug crimes being committed.
(ord. of 3-26-1996)

Sec. 3-5-4 Powers of public officers in regard to unfit buildings or structures.

The public officer may exercise such powers as may be necessary or convenient to carry out and effectuate the purpose and provisions of this Chapter:

(1) To investigate the dwelling conditions in the unincorporated area of the county or in the municipality in order to determine which dwellings, buildings, or structures therein are unfit for human habitation or are unfit for current commercial, industrial, or business use or are vacant, dilapidated, and being used in connection with the commission of drug crimes:

(2) To administer oaths and affirmations, to examine witnesses, and to receive evidence;

(3) To enter upon premises for the purpose of making examinations; provided, however, that such entries shall be made in such manner as to cause the least possible inconvenience to the persons in possession;

(4) To appoint and fix the duties of such officers, agents, and employees as he deems necessary to carry out the purposes of the ordinances; and

(5) To delegate any of his functions and powers under die ordinance to such officers and agents as he may designate. (ord. of 3-26-1996)

Sec. 3-5-5 Service of complaints or orders upon parties in interest and owners of unfit buildings or structures.

(a) Complaints or orders issued by a public health officer pursuant to an ordinance adopted under this Chapter shall, in all cases, be served upon each person in possession of said property, each owner, and

each party in interest; and the return of service signed by the public officer or his agent or an affidavit of service executed by any citizen of this state, reciting that a copy of such complaint or orders was served upon each person in possession of said property, each owner, and each party in interest personally or by leaving such copy at the place of his residence, shall be sufficient evidence as to the service of such person in possession, owner, and party in interest.

(b) If any of the owners and parties in interest shall reside out of the county or municipality, service shall be perfected by causing a copy of such complaint or orders to be served upon such party or parties by the sheriff or any lawful deputy of the county of the residence of such party or parties or such service may be made by any citizen; and the return of such sheriff or lawful deputy or the affidavit of such citizen that such party or parties were served either personally or by leaving a copy of the complaint or orders at the residence shall be conclusive as to such service.

(c) Nonresidents of this state shall be served by posting a copy of such complaint or orders in a conspicuous place on premises affected by the complaint or orders. Where the address of such nonresidents is known, a copy of such complaint or orders shall be mailed to them by registered or certified mail.

(d) In the event either the owner or any party in interest is a minor or an insane person or person laboring under disabilities, the guardian or other personal representative of such person shall be served and if such guardian or personal representative resides outside the county or municipality or is a nonresident, he shall be served as provided for in subsection (c) of this Code section or this subsection in such cases. If such minor or insane person or person laboring under disabilities has no guardian or personal representative or in the event such minor or insane person lives outside the county or municipality or is a nonresident, service shall be perfected by serving such minor or insane person personally or by leaving a copy at the place of his residence which shall be sufficient evidence as to the service of such person or persons; in the case of other persons who live outside of the county or municipality or are nonresidents, service shall be perfected by serving the judge of the probate court of the county wherein such property is located who shall stand in the place of and protect the rights of such minor or insane person or appoint a guardian ad litem for such person.

(e) In the event the whereabouts of any owner or party in interest is unknown and the same cannot be ascertained by the public officer in the exercise of reasonable diligence and the public officer shall make an affidavit to that effect, then the service of such complaint or order upon such persons shall be made in the same manner as provided in subsection (c) of this Code section or service may be perfected upon any person, firm, or corporation holding itself out as an agent for the property involved.

(0 A copy of such complaint or orders shall also be filed in the proper office or offices for the filing of lis pendens notice in the county in which the dwelling, building, or structure is located and such filing of the complaint or orders shall have the same force and effect as other lis pendens notices provided by law. Any such complaint or orders or an appropriate lis pendens notice may contain a statement to the effect that a lien may arise against the described property and that an itemized statement of such lien is maintained on a lien docket maintained by the clerk of the governing body of the county or municipality. (ord. of 3-26-1996)

Sec. 3-5-6 Authority to use revenues, grants and donations to repair, close or demolish unfit buildings or structures.

The municipality is authorized to make such appropriations from its revenues as it may deem necessary and may accept and apply grants or donations to assist it in carrying out the provisions of ordinances adopted in connection with the exercise of the powers granted under this chapter. (ord. of 3-26-1996)

CHAPTER 4
COMPREHENSIVE ZONING

4-1 GENERAL

Sec. 4-1-1. Title.

This chapter shall be known as the Comprehensive Zoning Ordinance of the Town of Talking Rock, Georgia. . (ord. of 3-26-1996)

Sec. 4-1-2. Authority for enactment.

The Town council enacts the ordinance from which this section derives under the exercise of the powers conferred upon it by Georgia Laws, Acts 1997, Act No. 340 et seq. and the acts amendatory thereof. . (ord. of 3-26-1996)

State law reference(s)~Town's authority to adopt plans and exercise the power of zoning, Ga. Const., art. 9, sec. 2, par. 4; The Zoning Procedures Law, O.C.G.A. § 36-66-1 et seq.; local government zoning powers, O.C.G.A. § 36-66-2; conflicts of interest in zoning actions, O.C.G.A. § 36-67A-1 et seq.; effect of zoning laws on covenants running with the land, O.C.G.A. § 44-5-60.

Sec.4-1-3 Reserved

Sec. 4-1-4. Purpose.

This Town council expressly finds and determines that this comprehensive zoning chapter is adopted and enacted for the purpose of promoting the health, safety, morals, convenience, order, prosperity, and general welfare of the Town, its citizens, inhabitants, and occupants and is adopted and enacted in accordance with a comprehensive plan, and it is the intent, purpose and design of the board of commissioners by the adoption hereof to lessen congestion in the streets; to secure safety from fire, panic, and other dangers; to promote health and the general welfare; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements; and this chapter and its provisions are adopted after careful and reasonable consideration of the character of each district and its peculiar suitability for particular uses, and with a view to promoting desirable living conditions and the sustained stability of neighborhoods, protection of property against blight and depreciation, securing economy in governmental expenditures, conserving the value of buildings and encouraging the most appropriate use of land and other buildings and structures throughout the Town. . (ord. of 3-26-1996)

Sec. 4-1-5. Penalty; remedies.

(a) Any person or corporation, whether as principal, agent, employee, or otherwise, who violates any of the provisions of this chapter may be fined one hundred dollars (\$100.00) for each offense, such fine to inure to the Town. Each day of the existence of any violation shall be deemed a separate offense.

(b) In case any building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained, or any building, structure, or land is used in violation of this chapter, the zoning administrator or any other appropriate authority, or any adjacent or neighboring property owner who would be damaged by such violation, in addition to other remedies, may institute injunction, mandamus, or other appropriate action or proceedings to prevent the violation in the case of such building, structure, or land. (ord. of 3-26-1996)

Sec.4-1-6. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Accessory building means a detached, subordinate structure, the use of which is clearly incidental to, customarily associated with, and related to the principal structure or use of the land, and which is located on the same lot as the principal structure or use. Accessory buildings shall include storage buildings, tool houses, party houses, bath houses (used in conjunction with swimming pools), tree houses and similar uses.

Accessory building-side yard requirements. In the case of accessory buildings or structures located on a lot with a principal building, the side yard requirements of the yard in which the lot is located shall be considered as extending from the front lot line to the rear lot line.

Accessory use means the use customarily incidental and accessory to the principal use of a building located upon the same building site as the accessory use.

Adjoining property line (MH district) means the boundary line between a manufactured housing subdivision and property in another ownership and shall, for the purpose of these regulations, include utility rights-of-way but not street rights-of-way.

Administrator, zoning means the person, officer, or official and his authorized representative, who the Town commission has designated as its agent for the administration of these regulations.

Alley means a public thoroughfare which ordinarily affords only a secondary means of access to abutting property and which is not more than twenty (20) feet wide.

Automobile sales or storage yards or lots means an open premises used for the storage or sale of complete and operable automobiles.

Automobile wrecking yard or automobile used parts lot means anywhere three (3) or more vehicles not in running condition, or the parts thereof, are stored in the open, or any building or structure used principally for wrecking or storage of automobiles not in running condition or automobile parts.

Basement means a room or story partly underground, and having at least one-half of its height above the average level of the adjoining ground. A basement shall be counted as a story if used for dwelling or business purposes.

Bed and breakfast homestay means the limited use of a residential dwelling to provide overnight lodging utilizing not more than two (2) bedrooms within that dwelling for occupancy by not more than a total of four (4) transient persons per principal dwelling unit for compensation.

Board of zoning appeals means the Talking Rock Board of Zoning Appeals established by this chapter.

Boarding or rooming house means a building dedicated to the lodging or feeding or both of three (3) or more nontransient persons of separate families as defined in this article for compensation.

Building is any structure, except a mobile home, which has a roof and which is for the shelter, support or enclosure of persons, animals, or property of any kind.

Building height means the vertical distance of a building measured from the average elevation of the finished lot grade along the front of the building to the highest point of the building.

Cellar means a room or story having more than one-half of its height below the average level of the adjoining ground. A cellar shall not be counted as a story for purposes of height measured.

Club or lodge, private means an incorporated or unincorporated association for civic, social, cultural, religious, fraternal, literary, political, recreational, or like activities, operated for the benefit of its members and not open to the general public.

Collector streets means those streets which serve as feeders to a major street, as collectors of traffic from minor streets, and for circulation around a residential neighborhood.

Commission means the Talking Rock Planning and Zoning Commission.

Conditional use means a use which within certain districts specified by this chapter is not permitted as a matter of right but may be permitted within these districts by the Town commission after the planning commission has (1) reviewed the proposed site plans for the use, its location within the community, its arrangement and design, its relationship to neighboring property and other conditions peculiar to the particular proposal which would determine its desirability or undesirability; (2) has found the proposal not to be contrary to the intent of this chapter; and (3) has recommended the use as specified after a public hearing.

Condominium means a building or complex of multiple unit dwellings in which a tenant holds full title to his unit and joint ownership in the common grounds.

Comer lot means a lot which abuts on two (2) or more streets, and roads, at their intersection, or upon a curved street, provided that the two (2) sides of the lot, or the tangents to the curve of the street line at its starting points at or within the side lines of the lot, intersect to form an interior angle of not more than one hundred thirty-five (135) degrees.

County governing body means the Board of Commissioners of Pickens County, Georgia.

Curb cut means the providing of ingress and egress between property and an abutting public street.

Dead-end street means a street with no outlet at one (1) end.

Dwelling, multifamily means a building either designed, constructed, altered, or used for more than two (2) adjoining dwelling units, with each dwelling unit having a common wall or common floor connecting it to at least one (1) other dwelling unit in the building.

Dwelling, single-family means a detached building used and either designed or constructed for one (1) dwelling unit.

Dwelling, two-family, or duplex means a building either designed, constructed, altered, or used for two (2) adjoining dwelling units that are connected by a common wall and if two (2) story by a common floor.

Dwelling unit means an enclosure of one (1) or more rooms, including kitchen facilities, designed or constructed as a unit for residential occupancy by one (1) family.

Expressway means a divided highway for through traffic with full or partial control of access. It contains two (2) lanes or more for traffic going in opposing directions and divided by a median strip, and so designed as to protect the opposing flows of traffic and thus increase the safety and practical caption of the road for regional and inter-regional traffic.

Family means one (1) or more persons occupying a premises and living as a single housekeeping unit, as distinguished from a group occupying a boardinghouse, lodginghouse, hotel, or fraternity or sorority house.

Floor area, gross shall mean the total number of square feet of floor area in a building determined by horizontal measurements between the exterior faces of walls, excluding basement areas, porches, carports, and garages.

Front lot line means the front lot line of an interior lot separating the lot from the fronting street right-of-way. The front lot line of a corner lot shall be the lot line upon which the principal building entrance will front.

Frontage shall mean the distance for which property abuts one (1) side of a street, road, or highway, or other public way measured along the dividing line between the property and such road, or highway, or other public way.

Frontage roadway or access street means a roadway contiguous to and generally paralleling an expressway, major street or highway, or through street or highway and so designed as to intercept, collect and distribute traffic desiring to cross, enter, or leave such facility, and to furnish access to property which otherwise would be isolated as a result of controlled-access features peculiar to topographic conditions.

Garage means a building used for the storage or housing of motor-driven vehicles.

Garage, private means a garage intended for and owned or used by the members of families resident upon the premises provided that not more than one-half of the garage space may be rented for private vehicles owned or used by persons not resident on the premises, except that all the space in a garage of one (1) or two (2) car caption may be so rented. Such a garage shall not include those used by more than one (1) commercial vehicle per family resident on the premises, and no such commercial vehicle shall exceed two (2) ton caption, nor shall such garage provide for the repair or equipping of such vehicles.

Garage, service means a garage used for repair of vehicles.

Garage, storage means a garage used primarily for storage of vehicles.

Guesthouse means an accessory building to be used solely by the occupant of the main building for his pleasure or recreation or to house nonpaying guests.

Guestroom means a room which is designed or intended for occupancy by, or which is occupied by, one (1) or more guests, but in which no provision is made for cooking, and not including dormitories for sleeping purposes.

Home occupation means an occupation for gain or support customarily conducted on the premises by a person or family residing thereon. The term "home occupation" shall not be deemed to include a tourist home.

Hospital means any institution receiving in-patients, or a public institution receiving out-patients, and authorized under state law to render medical or obstetrical care or both. The term "hospital" shall include a sanitarium for the treatment and care of senile psychotics or drug addicts, but shall not include office facilities for the private practice of medicine or dentistry.

Hotel means any building containing sleeping rooms for the more or less temporary occupancy of individuals who are lodged with or without meals, with no provision made for any cooking in any individual room or suite.

Hotel, apartment means any building which satisfies both the definition of a multiple-dwelling house and that of a hotel as defined by this section.

Industrial street or boulevard means a street of some continuity used primarily by all forms of commercial or industrial vehicular traffic and used for intercommunication between commercial areas and residential areas and industrial districts, or between industrial districts.

Interior lot means a lot which is not a corner.

Junkyard means the use of property for outdoor storage, keeping, abandonment, sale, or resale of junk including scrap metal, rags, paper or other scrap materials, used lumber, salvaged house wrecking and structural steel materials, and equipment, or for the dismantling, demolition, or abandonment of automobiles or other vehicles or machinery or parts thereof.

Kennel means the housing of four (4) or more dogs.

Land or territory subdivision means a parcel or tract of land, the dimensions of which are shown on a map on file with the Clerk of Superior Court of Thomas County, Georgia, as of the date of the adoption of the ordinance from which this section derives.

Landing area means the area of the airport used for the landing, take-off, or taxiing of aircraft.

Lodging or boarding house means a building designed or used for the more or less permanent occupancy, with or without meals, of more than two (2) lodgers or boarders whether the compensation be paid directly or indirectly.

Lot includes the word "plot" or "parcel" and means a parcel of land occupied or intended to be occupied by a principal building or use and any accessory building and uses customarily incident to it, including open spaces not less in extent than those required in connection therewith by this chapter. A "lot of record" is a parcel of land, the dimensions of which are shown on a map or plat on file with the Clerk of Superior Court of Thomas County, Georgia, and which actually exists as so shown, or any part of such parcel held in a recorded ownership separate from the ownership of the remainder thereof. All lots recorded after adoption of the ordinance from which this section derives shall front on and have ingress and egress by means of a public street, road or highway.

Lot depth means the distance between front and rear lot lines. If two (2) opposite sides of such lot are not parallel, the depth shall be deemed to be the mean distance between the front and rear lot lines.

Lot through means a lot other than a corner lot having frontage on more than one (1) street.

Lot width means the distance between the side lot lines, measured along the front yard setback line as established by this chapter, or, if no setback line is established, the horizontal distance between the side lot lines measured along the street right-of-way line.

Major street or highway means a highway primarily for through traffic, usually on a continuous route, with intersections at grade and having direct access to abutting property, and on which geometric design and traffic control measures are used to expedite the safe movement of through traffic.

Manufactured home means a detached single-family dwelling unit, designed for long-term occupancy, which has been prefabricated and then transported to its site or to a sales lot on its own wheels, and requires only minor work before occupancy such as connection to utilities or to a foundation. Such units are usually fully equipped and furnished as opposed to a prefabricated house which may be constructed on or off its proposed site.

Manufactured housing subdivision means a subdivision of land intended for the sale of lots to individuals for the placement and occupancy of manufactured homes.

Mini-storage building means a small storage building which does not exceed three thousand (3,000) square feet in area and may be used for general storage purposes by one (1) or more persons as a single building or divided into compartments and may be leased or rented to the general public. Hazardous materials listed in section 408.3 of the 1988 edition of the Standard Building Code are not permitted.

Minor or local street means a street primarily for access to abutting property.

Motel means any building containing sleeping rooms for more or less temporary occupancy of individuals who are lodged with or without meals and where the design favors a direct vehicular approach to each sleeping or living room. Any building or structure exceeding two (2) stories in height shall be classified as a hotel rather than a motel.

Natural grade means the elevation of the ground adjoining the building.

Nonconforming use means any use of a building or of land that does not conform to the regulations for the district in which it is situated as of the effective date of adoption of the ordinance from which this section derives.

Nursery school means an agency, organization, or individual providing daytime care of four (4) or more children not related by blood or marriage or not the legal wards or foster children of the attendant adult.

Nursing home means a rest home, nursing home, convalescent home to render domiciliary care, but not including facilities for the care of mental patients, epileptics, alcoholics, drug addicts and not including nursery schools.

Parking lot means a parcel of land devoted to unenclosed parking spaces which may include partially enclosed one-story buildings, and where a charge is made for storage or parking of vehicles.

Parking lot accessory means a parcel of land used by an individual, partnership, firm or corporation in any commercial or industrial district exclusively for the parking of vehicles of its employees or customers and for which no charge is made.

Parking space means an area of appropriate dimensions of not less than one hundred eighty (180) square feet net, exclusive of access or area, or ramps or columns, etc., to be used exclusively as a temporary storage space for private motor vehicles. Truck loading and unloading space shall not be included in such area. When the application of a unit of measurement for parking spaces to a particular use of structure results in a fractional space, any fraction under one-half shall be disregarded and fractions of one-half or over shall be counted as one (1) space.

Planting strip means the portion of the street between the curb and the property line exclusive of the area occupied by the sidewalk.

Portable structures means mobile homes, converted mobile homes, trailers of any kind, or other portable wheeled structures (whether on wheels or with wheels removed and placed on a foundation) that can be driven or towed on their own chassis, and any structure designed, built and intended to be transportable from one (1) location to another. This definition does not include those structures regulated by the Georgia Industrialized Building Act.

Principal building means the building containing or to contain the principal use of a lot.

Principal use means the principal purpose for which a lot or the main building thereon is designed, arranged, or intended, and for which it is or may be used, occupied or maintained.

Public notice means a notice published twice in a newspaper of general circulation in the county at least fifteen (15) days prior to a public hearing concerning proposed changes or amendments to this chapter or the maps thereto, or both, setting forth the time, place, and purpose of such public hearing.

Public street means right-of-way dedicated to the Town or owned by the Town for public street purposes.

Rear lot line means the rear lot line boundary opposite and more or less parallel to the front lot line. The rear lot line of an irregular or triangular lot shall be, for the purposes of this chapter, a line not less than ten (10) feet long, lying wholly within the lot, and parallel to and farthest distance from the front lot line.

Recreation vehicle park mean a licensed business operation which leases spaces for short term location of recreation vehicles, travel trailers or campers, used primarily for leisure time activities. Such short term location shall be limited to rental by the day or week only for a period of thirty (30) days or less.

Recreation vehicle stand means the site designed for the placement of a recreation vehicle and its cabana, accessory structures, utility connections, and off-street parking facilities.

Recreation vehicle, travel trailer and camper means a vehicular portable structure designed as a temporary dwelling for travel, recreation, and vacation uses, which is identified on the unit by the manufacturer as a camper or travel trailer, is not more than eight (8) feet six (6) inches in body width, and does not exceed thirty-one (31) feet in length.

Satellite receiving dish antenna means a dish-shaped or parabolic-shaped receiving or transmitting antenna (including antennae stored or temporarily placed) for the reception or transmission or both of terrestrial or satellite signals, including television signals, AM radio signals, FM radio signals, telemetry signals, data communication signals or any other reception or transmission signals using free air space as a medium, whether for commercial or private use.

Senior citizens home means a home for elderly people who choose to live in a place with people their own age, and who do not require regular nursing care or medical attention.

Service station means any building or premises used for the storing, dispensing, servicing, sale or offering for sale at retail of any automobile fuels and lubricants and automobile accessories, but not including major automobile repairing.

Setback means the shortest distance between the front property line and the principal building or structure on a lot.

Shopping center means two (2) or more commercial establishments planned and managed as a single unit with off-street parking and loading facilities provided on the property.

Shoulder means that portion of a roadway between the outer edge of the paved surface or the curb to the inside edge of the ditch or gutter or original ground surface.

Side lot line means a side lot boundary line that is not a front lot line or a rear lot line. A side lot line separating a lot from a street line is an exterior side lot line. Any other side lot line is an interior side lot line.

Sidewalk means that portion of a street or road available exclusively for pedestrian traffic.

Stable private means a building with a capacity sufficient to accommodate not more than three (3) horses or mules.

Story means the vertical distance of a building included between the surface of any floor and the surface of the next floor above it, or, if there be no floor above it, then the space between such floor and the ceiling next above it, provided that a cellar shall not be considered a story. Attic or basement space is construed as one-half story.

Street means a public thoroughfare, twenty-one (21) feet or more wide, where public title to land extends between right-of-way lines. Whenever the sense of the law or these regulations so requires, the word "street" shall include avenue, drive, circle, road, highway, or similar terms as they are generally understood.

Street grade means the grade of the curb or centerline of street upon which the lot abuts at the midpoint of the frontage.

Street line or right-of-way line is the dividing line between a lot, its property line or lines, and a public right-of-way, a public street, road, or highway, or a private street, road, or highway, over which two (2) or more abutting owners have an easement or right-of-way.

Street width means the horizontal distance between the right-of-way lines of the street, measured at right angles to the right-of-way lines.

Structural alterations means any change in the supporting members of a building or structure, such as bearing walls, columns, beams, girders, floor joists, or roof joists, or in the exterior walls.

Structure means anything constructed or erected with a fixed location on or in the ground, or attached to something having a fixed location on the ground. Among other things, structures include buildings, manufactured homes, accessory buildings, billboards, swimming pools, fall-out shelters, outside heating and air conditioning units, but do not include walls or fences.

Subdivision means the division of a lot, tract, parcel of land into two (2) or more lots, plats, sites, or other divisions of land for the purpose, whether immediate or future, of sale or of building development for purposes other than agricultural. It includes resubdivision and, when appropriate to the context, relates to the process of subdividing or to the land or territory subdivided.

Through street or highway means every street or highway or portion thereof at the entrance to which vehicular traffic from intersecting highways is required by law to stop before entering or crossing the same and when stop signs are erected. It generally is radial or circumferential in relation to present heavily populated areas, and is intended to provide continuous, wide, direct, and adequate routes designed to insure the future stability of the expanding urban areas within the county and the region. They usually include all state and federal highways not otherwise designated in the master plan.

Tourist home means a dwelling in which sleeping accommodations are provided or offered to transient visitors for compensation.

Tree means any object of natural growth.

Variance means a relaxation of the terms of the zoning ordinance where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of the regulations would result in unnecessary and undue hardship.

Yard, front is that area of a lot lying between the abutting street right-of-way and the principal building of the lot and extending across the front of a lot from side lot line to side lot line.

Yard, rear is that area of a lot extending across the rear of a lot from side lot line to side lot line and lying between the rear lot line and the principal building on the lot.

Yard, side is that area of a lot between the side lot line and the principal building on the lot extending from the front yard to the rear yard.

(ord. of 3-26-1996)

Sec. 4-1-7. Interpretation and application.

In interpreting and applying these regulations, the requirements contained in this article are declared to be the minimum requirements necessary to carry out the purpose of these regulations. Except as otherwise provided in this chapter, these regulations shall not be deemed to interfere with, abrogate, annul, or otherwise affect in any manner whatsoever any easements, covenants, or other agreements between parties. Whenever the provisions of these regulations impose greater restrictions upon the use of land or buildings, or upon the height of buildings, or require a larger percentage of lot to be left unoccupied than the provisions of other ordinances, rules, regulations, permits, or any easements, covenants, or other agreements between parties, the provisions of these regulations shall govern. (ord. of 3-26-1996)

Sec. 4-1-8. Zoning affects all land and buildings.

No buildings, structure, or land shall be used or occupied, and no building, structure, or part thereof shall be erected, constructed, reconstructed, moved, enlarged, or structurally altered unless in conformity with the regulations of this chapter. (ord. of 3-26-1996)

Sec. 4-1-9. Every use must be upon a lot.

No building or structure may be erected or use established unless upon a lot as defined by this ordinance. (ord. of 3-26-1996)

Sec. 4-1-10. Only one principal building per lot.

Except as provided in section 4-1-42, there shall be no more than one (1) principal building or structure upon any lot other than within an M-1 district. (ord. of 3-26-1996)

Sec. 4-1-11. Open space not to be encroached upon.

No open space shall be encroached upon or reduced in any manner except in conformity to the yard, setback, off-street parking spaces, and such other regulations required by this chapter for the district in which such building is located. Shrubbery, driveways, retaining walls, fences, curbs, and planted buffer strips shall be construed not to be encroachments of yards. (ord. of 3-26-1996)

Sec. 4-1-12. Required open space may not be used by another building.

No part of any yard, other open space, or off-street parking or loading space required about or in connection with any building, structure, or use by this chapter shall be considered to be part of a required yard, or other open space, or off-street parking or loading space for any other building, structure, or use except as otherwise provided in this title. (ord. of 3-26-1996)

Sec. 4-1-13. Reduction of yards or lot area.

(a) Except as provided in section 4-1-25. No lot existing at the time of passage of the ordinance from which this section derives shall be reduced, divided, or changed so as to produce a tract of land which does not comply with the minimum dimension or area requirements of this chapter for the district in which it is located unless such reduction or division is necessary to provide land that is needed and accepted for public use.

(b) When an accessory building is to be located on a corner lot, the side lot line of which is substantially a continuation of the front lot line of the lot to its rear, such building shall not project beyond the front yard required on the lot in rear of such corner lot.

(c) In the case of double frontage lots, accessory buildings shall observe front yard requirements on both street frontages wherever there are any principal buildings fronting on such streets in the same block or adjacent blocks.

(ord. of 3-26-1996)

Sec. 4-1-14. Encroachment on public rights-of-way.

No building, structure, service area, or required off-street parking and loading facilities, except driveways, shall be permitted to encroach on public rights-of-way. (ord. of 3-26-1996)

Sec. 4-1-15. Location of accessory buildings or uses on residential lots.

Accessory buildings shall not be erected in any required yard, except a rear yard, provided further that in no instance shall such a building be nearer than five (5) feet to any rear lot line, nor in any case nearer than the required side yard for the principal building for the district in which it is located. (ord. of 3-26-1996)

Sec. 4-1-16. Accessory buildings or uses on nonresidential lots.

Accessory buildings or uses on nonresidential lots shall comply with front, side and rear yard requirements established for the zoning district in which such accessory buildings or uses are located. (ord. of 3-26-1996)

Sec. 4-1-17. Recreation vehicle, travel trailer, or camper.

One (1) recreation vehicle, travel trailer or camper as defined in section 4-1-6 may be stored on a residential lot provided it is locked or unoccupied. (ord. of 3-26-1996)

Sec. 4-1-18. Portable structures.

Portable structures may be used as an office as follows; portable structures used for any other occupancy are prohibited, except for storage:

(1) Mobile home sales lots. Mobile homes converted to offices may be used on mobile home sales lots. No other type of portable structure may be used. The office may have living accommodations for a night watchman.

(2) Construction sites. Any type of portable structure may be used as a construction site office for the duration of the construction. Immediately upon completion of the project, the portable structure shall be removed. Construction site office may have living accommodations for a night watchman or superintendent during construction.

(3) Restrooms required. Portable structures used as offices shall be equipped with bathrooms or restrooms as required by the intended occupancy.

(4) Nonconforming use. Any portable structure used for any purpose not permitted by this section is declared to be a nonconforming portable structure. When the use of a nonconforming portable structure is discontinued for a period in excess of six (6) months, the structure shall be removed from the property. Vacancy or non-use or both of the structure, regardless of the intent of the owner or tenant, shall constitute discontinuance under this section.

(5) Temporary offices. Portable structures may be used as temporary offices during the construction of new office facilities. Restroom facilities must be provided in the temporary office or either in a nearby adjacent building. Portable offices must be removed immediately upon

completion of new office spaces. The length of time of use, size architectural design and placement of these portable offices must have prior approval from the Town planner.
(ord. of 3-26-1996)

Sec.4-1-19. Every lot shall abut a street.

Except in subdivisions approved under Section 5-8-1 et seq., no building shall be erected on a lot which does not abut an open public street.

Sec. 4-1-20. Lots with multiple frontage.

(a) In the case of a corner lot, side yard setback requirements from the property line shall be equal to seventy-five (75) percent of that required for the front yard setback for the district. On a corner lot where the main entrance into a residence is facing a side yard, it shall be permissible for purposes of this chapter to construe the residence to be fronting on the street other than that street which such entrance faces, and side and rear yard requirements may be provided accordingly. If a building is constructed on a through lot having frontage of two (2) roads not at an intersection, a setback from each road shall be provided equal to the front yard requirement for the district in which the lot is located.

(b) In the case of corner lot zoned commercial, the street side yard setback shall be a minimum of five (5) feet.

(ord. of 3-26-1996)

Sec. 4-1-21. Screening required.

Wherever screening is required by this chapter, a masonry or wood fence of sufficient height or chain link fence with slats of sufficient height or a fence and hedge of sufficient height or any fence combination to provide an effective visual blind designed to be reasonably compatible with the character of adjoining properties shall be provided and properly maintained. Such fences and walls shall be at least five (5) feet in height, but no greater than seven (7) feet in height, measured from the ground along the common lot line of the adjoining properties. Hedges or comparable natural plantings shall be of such variety that an average height of at least six (6) feet could be expected by normal growth within no later than three (3) years from the time of planting.
(ord. of 3-26-1996)

Sec. 4-1-22. Side and rear yards not required next to railroad.

Within any nonresidential district, side yards and rear yards shall not be required adjacent to railroad rights-of-way. (ord. of 3-26-1996)

Sec. 4-1-23. Substandard lots of record.

Any lot of record existing at the time of the adoption of this ordinance which has an area or a width which is less than required by this chapter shall be subject to the following exceptions and modifications: In any district in which single-family dwellings are permitted, any lot of record existing at the time of the adoption of this chapter which has an area or a width which is less than that required by this chapter may be used as a building site for a single-family dwelling or other use permitted in that zone; provided, however, that the same yard, setback, open-space, and other

dimensional requirements are met that would be required for a standard lot or required as stipulated in section 22-181 or as modified elsewhere in this chapter. (ord. of 3-26-1996)

Sec. 4-1-24. Intersection visibility and corner setback.

In all zones, except on corners where a traffic light is existing and operating twenty-four (24) hours daily, no construction, hedge, bushes or other obstruction to a clear view which extends over three (3) feet in height shall be permitted at any corner of intersecting streets where either or both of the streets are less than sixty (60) feet in width, within the area formed by the legs of a triangle where apex is a point of intersection of the centerline of the traveled roadways and the legs of which are three hundred (300) feet along the centerline of the thru street and thirty-three (33) feet along the centerline of the stop or minor street and the hypotenuse of which is the line connecting the end of the legs. Exceptions shall be made for utility poles, lighting standards, traffic and street signs and trees (on Town property), the branches of which are kept trimmed to a height of eight (8) feet above the street level. Nonconforming buildings shall be excepted from this provision. (ord. of 3-26-1996)

Sec. 4-1-25. Permitted modification of setback requirement

When a building or structure is proposed on a lot and when on either or both lots which adjoin such lot at the street right-of-way line there exists a principle building which does not conform to the setback requirements of this chapter, the required setback for such building or structure shall be as follows:

(1) Where only one (1) such adjoining lot contains a principal building with a nonconforming setback, the setback shall be the computed average of the normal setback requirement with the nonconforming setback; or

(2) Where both adjoining lots contain a principal building each with a nonconforming setback, the minimum setback shall be the computed average of the two (2) nonconforming setbacks.

(ord. of 3-26-1996)

Sec.4-1-26. Zoning to apply when lot is divided by district boundary line.

In the event that a district boundary line on the zoning map divides a lot of record held in one (1) ownership on the date of passage of the ordinance from which this section derives, each part of the lot so divided shall be used in conformity with the regulations established by this chapter for the district in which each such parcel is located: except, however, that if the property owner of such a lot, other than a through lot, so desires, he may extend a use allowed on the greater portion of the lot fifty (50) feet beyond the district boundary line in accordance with setbacks and yard requirements of the district into which he is encroaching. (ord. of 3-26-1996)

Sec. 4-1-27. Height limitations of walls and fences.

Within any residential district, no wall or fence shall exceed six (6) feet in height within or along a boundary of a front, side or rear yard. (ord. of 3-26-1996)

Sec. 4-1-28. Screening of service areas within one hundred feet of public street.

Any service area, refuse, or storage area between a principal building and a public street being visible from such street and lying within one hundred (100) feet of such street shall be screened from view from the public street as specified in section 4-1-21 if within any commercial area or C-1A area. (ord. of 3-26-1996)

Sec.4-1-29. Required buffers in C-1, C-2, M, and M-1 districts.

In a C-1, C-2, M, or M-1 zoning district where a lot abuts any residential district, a six (6) foot wide buffer shall be provided with screening as specified in section 4-1-21. Off-street parking associated with such uses shall be governed by this same provision. (ord. of 3-26-1996)

Sec. 4-1-30. Structures permitted above the height limit.

The height limits of these regulations shall not apply to a church spire, belfry, cupola, dome, or ornamental tower not intended for human occupancy, monument, water tower, observation tower, transmission tower, chimney, smoke stack, conveyor, flag pole, radio or television tower, mast or aerial, parapet wall not extending more than four (4) feet above the roof line of the building, and necessary mechanical appurtenances. (ord. of 3-26-1996)

Sec. 4-1-31. Permitted encroachment of yards and setbacks.

Architectural features such as cornices, eaves, steps, gutters, fire escapes, raised patios and raised decks may project not more than four (4) feet beyond any required setback line, except where such projections would obstruct driveways which are or may be used for access for service or emergency vehicles or both. (ord. of 3-26-1996)

Sec.4-1-32. Modification of side yard requirements.

When a lot of record has a width of less than the frontage required in the district in which it is located, the zoning administrator shall be authorized to reduce the side yard requirements for such lot, provided, however, that there shall be not less than a six (6) foot side yard. (ord. of 3-26-1996)

Sec. 4-1-33. Uses prohibited.

If either a use or class of use is not specifically indicated as being permitted in a district, either as a matter of right, or as a conditional use, then such use, class of use, or structures for such uses, shall be prohibited in such district. (ord. of 3-26-1996)

Sec.4-1-34. Special building setbacks.

(a) In each of the districts described in this section no building, structure, or obstruction shall be erected or maintained on any land abutting the following street, streets, or highways nearer than the setback as follows:

(1) Reserved

(b) Nothing contained in this section shall be construed or interpreted in any way to require or permit less setback than is specifically required in each district provided.

(ord. of 3-26-1996)

Sec. 4-1-35. Swimming pools (semiprivate and commercial).

(a) As to commercial pools, zoning shall be as set forth in section 4-3-1 et seq. of the Code of the Town of Talking Rock.

(b) As to semiprivate pools, such pools may be located as a matter of right in zones R2A and below. For semiprivate pools to be located in zones R1 and above, a request for rezoning the property proposed to conditional use-semiprivate swimming pool will be required. As to a proposed subdivision, where a pool is identified at the time of the preliminary and final approval, no rezoning will be required.

(ord. of 3-26-1996)

Sec. 4-1-36. Swimming pool (residential).

(a) A residential swimming pool shall not be constructed in any required yard except a rear or side yard, provided further that in no instance shall a swimming pool or any of its appurtenances be located nearer than five (5) feet to any rear lot line, nor in any case nearer than the required side yard setback for the principal building for the district in which it is located.

(b) When located on a corner lot, a residential swimming pool shall be located from the property line on the side street a minimum of seventy-five (75) percent of that required for the front yard setback for the district and the setback from the rear property line shall be fifty (50) percent of that required for the rear yard setback for the district.

Sec. 4-1-37. Zoning of annexed areas.

Areas annexed to the Town subsequent to the adoption of the ordinance from which this section derives shall be placed in the A (agricultural) zoning district and shall remain A until such time as the comprehensive zoning plan of the Town has been extended to include the annexed area and a zoning change is executed in accordance with the provisions of this chapter for zoning amendments. Areas may also be simultaneously annexed and zoned when executed in accordance with the provisions of this chapter for zoning amendments. (ord. of 3-26-1996)

Sec. 4-1-38. Mechanically emptied refuse containers.

Any refuse container on private property which is the type that is picked up and emptied mechanically is subject to the following restrictions:

- (1) The container shall be in a location which is accessible twenty-four (24) hours a day.
- (2) The container shall be located within a paved area.
- (3) The container shall be placed on a four-inch thick concrete pad, not over two (2) inches above the pavement. The concrete pads shall extend a minimum of twelve (12) inches beyond the container wheels on all sides.
- (4) Containers in apartment complexes located in R-2A and R-2 zones less than one

hundred (100) feet from a public street shall be screened or located in such a way as to be obscure from such street.

(ord. of 3-26-1996)

Sec. 4-1-39. Standards for satellite receiving dish antennae.

Satellite receiving dish antennae are allowed in all zones. In all A, R-1A, R-1B, R-1, R-2A, R-2, R-TH, R-CD and C-1A zones the following requirements will apply:

(1) A satellite receiving dish antenna shall be erected only in a rear yard and the setback requirements will be the same as those required for an accessory building. "Rear yard" is defined as that portion of a lot which lies behind the rear wall of the principal structure located on the lot on the line which would be an extension of that rear wall to each side lot line.

(2) The maximum height allowed is fifteen (15) feet, zero (0) inches measured from the ground and the maximum width allowed is twelve (12) feet, zero (0) inches.

(3) There may not be more than one (1) satellite receiving dish antenna per residence, apartment complex, or condominium association.

(4) The Town building inspections department shall review the installation plans, which plans must be signed and sealed by a professional engineer registered in the state who shall certify that the satellite receiving dish antenna meets the structural, wind resistance and all other requirements of the standard building code as adopted by the Town. Wind resistance is deemed to mean an ability to withstand winds up to one hundred twenty (120) miles per hour. The calculations of the engineer shall be submitted along with the plans.

(5) Vegetation screening with a minimum height of five (5) feet (but subject to the height limitations for fences set forth elsewhere in the zoning chapter) shall be required between the object and residential properties which abut the rear yard, between the antenna and residential properties across such a front or side street, so as to screen the antenna from the view of persons on first floor levels of the nearby residential properties and from persons on those public streets.

(6) After approval of the plans, a permit must be purchased from the building inspections department before installation can begin.

(7) A property owner who has in place a nonconforming antenna at the effective date of the ordinance from which this section derives may continue to maintain the antenna in that configuration for five (5) years from the effective date of the ordinance from which this section derives, at which time the nonconforming antenna must be brought into compliance with this chapter or removed, but should the property be sold or transferred, the nonconforming use must be removed within thirty (30) days from the date of purchase or transfer or be made to conform to this chapter.

(ord. of 3-26-1996)

Sec.4-1-40. Bed and breakfast homestay operation.

Bed and breakfast homestay shall be permitted in all zones except M-1. Bed and breakfast homestay in all A, R-1 A, R-1B, R-1 and R-2A zones shall be restricted to and comply with the following requirements:

(1) That the chief building official shall establish under the direction of the Town manager and Town council a set of rules for bed and breakfast homestay operation and administer such rules.

(2) Bed and breakfast operations shall be limited to two (2) bedroom units within any individual residential dwelling and total occupancy by transient persons shall be limited to four (4) per dwelling.

(3) Bed and breakfast operations shall not be permitted any exterior advertising sign.

(4) Bed and breakfast homestay operations in zones other than those restricted above shall be administered in accordance with the respective boarding or rooming house, tourist home, motel, hotel regulations established elsewhere within this chapter for such.

(ord. of 3-26-1996)

Sec. 4-1-41. Home occupations.

A home occupation as defined by this chapter shall be governed by the following requirements:

(1) Only residents of the dwelling may be engaged in the home occupation unless otherwise approved by the zoning administrator.

(2) The home occupation shall be clearly incidental to the residential use of the dwelling and shall not change the essential residential character of the building.

(3) Home occupations shall not include any type of retail business, manufacturing business, repair business, or clairvoyance, or fortunetelling.

(4) Only one (1) point of business sign, not exceeding two (2) square feet in size, motionless, nonlighted, and attached to the principal building, shall be permitted, and no advertising signs shall be permitted.

(5) Use of the building for this purpose shall not exceed twenty-five (25) percent of the floor area of the principal building.

(6) No internal or external alterations inconsistent with the residential use of the building shall be permitted.

(7) The occupation shall not constitute a nuisance in the neighborhood.

(8) No accessory buildings or outside storage shall be used in connection with the occupation.

(9) Instruction in music and similar subjects shall be limited to two (2) students at a time.

(10) Vehicles used primarily as passenger vehicles only shall be permitted in connection with the conduct of the customary home occupation.

(11) The following and similar uses shall be considered home occupations: Addressing service, art instructor, beauty shop (with no more than one (1) operator), dentist, doctor, drafting,

dressmaking, insurance agent, manufacturing agent, music teacher, notary public, photography, real estate agent, tax consultant, or ceramics.

(12) The zoning board of appeals may review and approve uses which are not named but are similar to the list of home occupations in subsection (11), provided the criteria set out in subsections (1) through (10) are met and the use otherwise meets the intent of this section.

(ord. of 3-26-1996)

Sec. 4-1-42. Group development projects.

Any group of buildings devoted to the same use or two (2) or more uses which are compatible under one (1) management or with common ownership, such as an apartment project or medical office development, known in this chapter as a group development project, may be permitted providing it shall meet the following requirements:

(1) Street access. Any building established as a part of a group development project which cannot properly be served by emergency or service vehicles from an abutting street shall be made accessible to such vehicles by a paved driveway having a roadbed width of not less than twenty (20) feet, exclusive of parking spaces.

(2) Setback requirements. All buildings and structures established as a part of a group development project shall comply with the front yard setbacks, and the exterior side and exterior rear yard requirements established for the district in which located.

(3) Illumination not to be a nuisance. Illumination devices such as but not limited to flood or spot lights shall be so placed and so shielded as to prevent the rays or illumination therefrom being cast into neighboring dwellings and approaching vehicles.

(4) Uses prohibited. In no case shall a use be permitted as a part of a group development project that is prohibited by this chapter in the district in which such project is to be located.

(5) Prior approval. The plot plan, blueprints and articles shall be previously approved by the chief building official, the superintendent of utilities, and the Town engineer.

(ord. of 3-26-1996)

4-2 NONCONFORMANCES

Sec. 4-2-1 Nonconforming lots.

Any lot for which a plat or legal description has been recorded in the office of Clerk of the Superior Court of Pickens County at the time of passage of the ordinance from which this section derives which fails to comply with the dimensional requirements for the district in which it is located may if vacant be used for any of the uses permitted a conforming use, may have the structure improved, enlarged, or extended, provided that in either case:

(1) Minimum requirements of the district for front, side, and rear yard, height, and floor area shall be complied with.

(2) The lot be used for duplexes or multifamily dwellings when allowed within the district only if the lot meets the minimum lot area requirements for those uses in the district.

- (3) The requirements of section 4-1-23 are met.

(ord. of 3-26-1996)

Sec. 4-2-2. Nonconforming open uses of land.

Nonconforming uses consisting of lots used for storage yards, used car lots, auto wrecking, junkyards, golf driving ranges, miniature golf and similar open uses where the only buildings on the lot are incidental and accessory to the open use of the lot and where such use of the land is not permitted to be established hereafter under this article in the district in which it is located shall be governed by the following restrictions in addition to the other requirements in this article:

- (1) When a nonconforming open use of land has been changed to a conforming use, it shall not thereafter be used for any nonconforming use.

- (2) Nonconforming open uses of land shall not be changed to any but conforming uses.

- (3) A nonconforming open use of land shall not be enlarged to cover more land than was occupied by that use when it became nonconforming.

- (4) When any nonconforming open use of land is discontinued for a period in excess of six (6) months, any future use of the land shall be limited to those uses permitted in that district under the provisions of this article. Vacancy and nonuse of the land, regardless of the intent of the owner or tenant, shall constitute discontinuance under this provision.

(ord. of 3-26-1996)

Sec. 4-2-3 Nonconforming uses of structures.

Nonconforming uses consisting of structures used, at the time of passage of the ordinance from which this section derives, for purposes not permitted in the district in which they are located shall, in addition to the other requirements of" this article, be governed by the following restrictions:

- (1) An existing nonconforming use of a structure may be changed to another nonconforming use that is similar in its operation and effect on surrounding properties or may be changed to a conforming use.

- (2) An existing nonconforming use of a structure shall not be changed to another nonconforming use that generates more automobile or truck traffic, creates more noise, vibration, smoke, dust or fumes, is a more intensive use of structures than the existing nonconforming use, and is in any way a greater nuisance to the adjoining properties than the existing nonconforming use.

- (3) A nonconforming use of a structure shall not be extended or enlarged except into portions of the structure which, at the time the use became nonconforming, were already erected and arranged or designed for such nonconforming use. No structural alterations shall be made in any structure occupied by a nonconforming use, which would in any way increase the floor space, area, or volume of space occupied by the us.

- (4) When any nonconforming use of a structure is discontinued for a period in excess

of one (1) year, any future use of the structure shall be limited to those uses permitted in that district under the provisions of this article. Vacancy or non-use or both of the building, regardless of the intent of the owner or tenant, shall constitute discontinuance under this provision.

(ord. of 3-26-1996)

Sec.4-2-4. Reconstruction of nonconforming structures.

When a nonconforming structure is a structure containing a nonconforming use or nonconforming sign is razed or damaged by fire, flood, wind, or act of God such structure or sign may be reconstructed as a nonconforming use only if the damage totals less than seventy-five (75) percent of the value of the structure. Structures which do not conform to the yard requirements of this article shall also be governed by this provision. (ord. of 3-26-1996)

Sec. 4-2-5 Changes in zoning.

Any nonconformances created by a change in district boundaries or ordinance regulations after the date of passage of the ordinance from which this section derives shall also be governed by the provisions of section 4-2-1. (ord. of 3-26-1996)

4-3 DISTRICTS

Sec. 4-3-1 Establishment of districts.

In order that the purposes of this chapter as defined in section 4-1-4 may be accomplished, there are hereby established within the Town the zoning districts identified as follows:

(1) A Agricultural. The purpose of this district is to provide single-family residential areas with minimum lot sizes of fifteen thousand (15,000) square feet, such areas being protected from the depreciating effects of small lot development, and also permitting rural agricultural uses.

(2) R-1A Single-family residential. The purpose of this district is to provide single-family residential areas with minimum lot sizes of 1.5 acres, such areas being protected from the depreciating effects of small lot development and excessive density and from the encroachment of those uses which are incompatible to a desirable residential environment.

(3) R-1B Single-family residential. The purpose of this district is to provide single-family residential areas with minimum lot sizes of .69 acres, such areas being protected from the depreciating effects of small lot development and excessive density and from the encroachment of those uses which are incompatible with a desirable residential environment.

(4) R-1 Single-family residential. The purpose of this district is to provide single-family residential areas with minimum lot sizes of seven thousand five hundred (7,500) square feet, such areas being protected from the depreciating effects of small lot development and excessive density and from the encroachment of those uses which are incompatible to a desirable residential environment.

(5) R-2A Multifamily residential. The purpose of this district is to provide orderly development of high density residential areas for one (1), two (2), and multifamily dwellings, such areas being protected from the encroachment of those uses which are incompatible to a desirable residential environment.

(6) R-2 Multifamily residential. The purpose of this district is to provide orderly development of high density residential areas for one (1), two (2), and multifamily dwellings as well as professional offices, such areas being protected from the encroachment of those uses which are incompatible to a desirable residential-professional environment.

(7) C-1A Limited business districts. The purpose of this district shall be to create an area in which residential, business, professional, educational, and institutional uses can be compatibly mixed while maintaining a healthful living environment for the residents of the district and at the same time preventing the development of blight and slum conditions.

(8) C-1 Commercial. The purpose of this district shall be to provide and protect convenient areas for community shopping facilities consisting of a wide variety of sales and services.

(9) C-2 Commercial. The purpose of this district shall be to enhance and protect shopping facilities in the central business district of the Town.

(10) M Manufacturing. The purpose of this district shall be to provide and protect areas for those industrial or other uses which do not create excessive noise, odor, smoke, dust, and which do not possess other objectionable characteristics which might be detrimental to surrounding neighborhoods, or to the other uses permitted in the district.

(11) M-1 Manufacturing. The purpose of this district shall be to provide and protect areas for those industrial uses which cannot comply with the regulations of the M district.

(12) MH Zone (One-family manufactured housing residential district). The purpose of this zone is to provide a zone where lots may be purchased by individuals for the purpose of permanently locating a manufactured home or constructing a single-family residence with minimum lot sizes of two (2) acres.

(13) L.U. Zone. The purpose of this zone is to allow the applicant to request that a certain area be designated as "Limited Use" (L.U.), which area, after having been recommended by the planning and zoning commission and approved by the Town council, must be used for only those conditions prescribed by the Town council, which uses must be among those uses permitted in the zone from which the limited use zone is taken. Any applicant for a limited use may ask for and receive consideration by the planning and zoning commission under the same terms and conditions prescribed for any rezoning request. The applicant may in all eventualities attach to his application a site plan, architectural renderings or such other material as might be of assistance to both the planning commission and the Town council in their considerations.

(14) R-TH Townhouse district The purpose of this district shall be to:

a. Encourage home ownership in the Town through innovative housing arrangements which utilize design and building concepts which may be different from the standard single-family residence concept;

b. Provide a wider variety of types of dwelling units than are available at the time of the enactment of the ordinance establishing this district; and

c. Allow for innovative uses of real property which may not be suitable for development for other kinds of residential use. See section 4-7-2 et seq. for development standards.

(15) R-CD Cluster housing. The purpose of this district shall be to provide savings in

infrastructure installation, land resources and energy use through the allocation of dwellings, construction and physical impact to a given tract of real property to permit variation in lot size, shape, width, depth, and building setbacks without an increase in overall density of population or development while ensuring to the greatest extent possible compatibility with adjacent developments and existing neighborhood. See section 4-7-9 et seq. for development standards.

(16) H-C Historic Commercial. The purpose of this district is to designate that area that is subject to the restrictions specified under the Historic Preservation Chapter of these ordinances and to enhance and protect shopping facilities in the historic district.

(17) H-R Historic Residential. The purpose of this district is to designate that residential area that is subject to the Historic Preservation provisions of this town.

Sec. 4-3-3 Zoning map.

(a) The boundaries of each district are shown on a map entitled ^{xv} "Comprehensive Zoning Map Talking Rock, Georgia" dated _____ and certified by the mayor. The map and all explanatory matter thereon is hereby made a part of this chapter.

(b) An accurate copy of the Comprehensive Zoning Map Talking Rock, Georgia, shall be on file in the office of the zoning administrator at all times. Such map shall accurately show all map amendments made in accordance with the provisions of this chapter, and the date when the amendments became effective. It shall be the duty of the zoning administrator to see to it that the Comprehensive Zoning Map Talking Rock, Georgia, is displayed in his office and is kept up to date and accurately shows all amendments.

(c) A description of the legal boundaries of the various zone districts has been omitted. Copies are available in the office of the chief building official in the Town hall.

Sec. 4-3-3 Interpretation of district boundaries, zoning map and references.

(a) All recording references to deeds, maps, plats or other such data in this chapter unless otherwise indicated may be found in the office of the Clerk of the Superior Court of Pickens County.

(b) Reference once made to a plat of a subdivision shall extend to any other reference to the subdivision by name without the place of record of the plat again being made.

(c) Where the boundary of a railroad right-of-way is the boundary of a district or zone or districts or zones and the total width of the right-of-way is not included by the word description in any district or zone, the total width of the right-of-way is included in the lower classification district or zone.

(d) Where a conflict exists between the map description and the word description of a zone or district, the word description shall control.

(e) The word description of zones or districts shall be used in interpreting the map descriptions.

(f) If any land area lying within the limits of the Town (exclusive of railroad right-of-way) has been omitted from zoning classification in this chapter, the omission is unintentional. If by reference to the word descriptions and the map descriptions it cannot be determined whether any particular land area within the limits of the Town has been zoned or classified such particular land area shall be construed to be included and zoned as a separate parcel or parcels in the A zone.

(g) If a district boundary line on the zoning map divides a lot of record held in one (1) ownership on the date of passage of the ordinance from which this section derives, each part of the lot so divided shall be used in conformity with the regulations established by this chapter for the district in which each such parcel is located; except, however, that if the property owner of such a lot, other than a through lot, so desires, he may extend a use allowed on the greater portion of such lot fifty (50) feet beyond the district into which he is encroaching.

(h) Where any public street or alley is vacated officially hereafter or abandoned, the zone classification and regulations of the larger portion shall apply to the remaining smaller portion of the lot.

(i) Where a street is in existence at the time of the effective date of the ordinance from which this section derives, and such existing street has less width than sixty (60) feet, it shall nevertheless be defined as a street.

(ord. of 3-26-1996)

Sec. 4-3-4 Historic district; conditional uses.

Structures located within the historic district of the Town (Zoning Districts H-C and H-R) and which appear on the Talking Rock Historic Building and Site Survey in section 4-3-6 may be appropriated to conditional uses which are restricted to cultural facilities, restaurant, tearoom, antique shop, art studio and outlet, craft shop and outlet, boutique, photographic studio, flower shop (retail), gift shop, professional offices, drugstore, bookstore, music school or studio, dance school or studio, ice cream parlor, multifamily dwellings (provided that the number of dwelling units be specified in the request for such conditional use. Such approval is to be granted according to the terms and conditions of section 3-3-1 et seq. (ord. of 3-26-1996)

State law reference(s). Facade and Conservation Easements Act of 1976, O.C.G.A. § 44-10-1 et seq.

Sec. 4-3-5 Historic district boundaries.

The boundaries of the Talking Rock Historic District are determined to be as follows:

4-4 PERMITTED USES

Sec. 4-4-1 Schedule of permitted uses.

(a) Table of permitted uses. Within the various zoning districts as indicated on the Comprehensive Zoning Map Talking Rock, Georgia. No building, structure, or land shall be constructed, erected, altered, or used except as indicated in the following schedules.

(b) Uses permitted by right. Uses permitted as a matter of right are indicated on the following schedule by the letter "X" in the appropriate column.

(c) Conditional uses. Uses permitted only after special review and approval of the Town commission and planning commission are indicated on the following schedule by the letters "CU" in the appropriate column.

(ord. of 3-26-1996)

4-5 ADMINISTRATION

Sec. 4-5-1 Zoning administrator appointed; duties.

The chief building official is hereby appointed as the zoning administrator and it shall be his duty to administer and to enforce this chapter. (ord. of 3-26-1996)

Sec. 4-5-2 Building permit required.

A building permit, or a sign permit in case of a sign, issued by the zoning administrator is required in advance of the initiation of construction, erosion, moving, or alteration of any building or structure or sign. No building permit or sign permit shall be issued except in conformity with the provisions of this chapter. However, a building permit issued before the adoption of the ordinance from which this section derives shall remain valid with the same qualifications as if issued under this section. (ord. of 3-26-1996)

Sec. 4-5-3 Application for building permit.

(a) All applications for building permits shall be accompanied by a plat or plan in duplicate, drawn to scale, showing the actual dimensions of the lot to be built upon; the size of the building to be erected; the location of the building on the lot, the size and location of the lot; the number of dwelling units the building is designed to accommodate; the setback lines of buildings on adjoining lots; and such other information as may be essential for determining whether the provisions of this chapter are being observed. Any building permit shall become void if the work involved has not begun within six (6) months after the date of issuance of the permit, or if the work or development authorized by such permit is suspended or abandoned for a period of six (6) months after the work or development is commenced; provided that extensions of time for periods not exceeding six (6) months each may be allowed in writing by the zoning administrator.

(b) The applicant for a building permit shall submit a certificate with his application which certifies that the lot which he proposes to develop is a lot of record. When the lot in question does not meet the lot width and lot area requirements of this chapter, then the applicant shall certify that such lot was a lot of record prior to the adoption of the ordinance from which this section derives or is a lot which has been created through governmental taking of property.

(c) The applicant shall also submit a building fee based on a calculation of 50 cents per square foot but no more than \$250.00.

(ord. of 3-26-1996)

Sec. 4-5-4 Sign permits.

The zoning administrator shall receive applications for the construction of signs, as required by this article. Such applications shall follow the same forms as required for building permits, and shall contain information required by section 4-9-6 and 4-9-7. The zoning administrator shall process such sign applications and shall issue sign permits and sign permit numbers for proposed signs which comply with the requirements of this chapter.

4-6 AMENDMENTS AND REZONING

Sec. 4-6-1 Alternative methods; preliminary review required.

This article, including the zoning map, may be amended by the Town council:

- (1) On its own motion;
- (2) By petition of any citizen or property owner;
- (3) On recommendation of the planning and zoning commission, but no amendment shall become effective unless it shall have been proposed by or shall first have been submitted to the planning and zoning commission for review and recommendation.

(ord. of 3-26-1996)

Sec. 4-6-2 Application for amendment.

Applications for amendment of this article may be in the form of proposals for amendment of the text of this article or proposals for amendment of the zoning map. Applications for amendment shall be submitted to the zoning administrator and shall include a five hundred dollar (\$500.00) fee, payable to the Town, to defray expenses, except that the application fee shall be one hundred fifty dollars (\$150.00) for zoning amendments involving single-family residential with one (1) unit. Any application for a zoning amendment which is denied by the Town council shall not be reconsidered for one (1) year after the date of denial. (ord. of 3-26-1996)

Sec. 4-6-3 Signature of applicant required.

All applications shall be signed by the applicant, and shall state the applicant's name and address. (ord. of 3-26-1996)

Sec. 4-6-4 Application for text amendment.

In the case of a text amendment, the application shall set forth the new text to be added and the existing text to be deleted. (ord. of 3-26-1996)

Sec. 4-6-5 Applications for map amendment.

An application for a map amendment shall include the following information:

- (1) The area in which the lot proposed to be rezoned is located and the street number, if any, or if none, the location with respect to the nearby public streets in common use; and,
- (2) A plat of the lot in question, or a description by metes and bounds, bearings, and distances of the lot, or, if the boundaries conform to the lot boundaries within a subdivision for which a plat is recorded in the land records of the county, then the lot, block, and subdivision designations with appropriate plat references and a copy of the deed to the land so described as required above; and,
- (3) The present zoning and the zoning proposed for the lot in question; and,
- (4) The name and address of the owners of the land; and,
- (5) The area of the land proposed to be rezoned stated in square feet if less than one (1) acre, and in acres if one (1) or more acres; and,

(6) The application number, date of application, and action taken on all prior applications filed for the rezoning of the whole or part of the land proposed to be rezoned.

(ord. of 3-26-1996)

Sec. 4-6-6 Public hearing and notification.

Before considering any proposed amendment which changes the text of this chapter, or any variance to the requirements of this chapter, or any amendment which rezones property from one (1) classification to another, the planning and zoning commission shall hold a public hearing thereon. No less than fifteen (15) days nor more than forty-five (45) days notice shall be given of the time and place of the planning and zoning commission hearing. The notice shall give the time and place, application number and a summary of the proposed amendment, if a text amendment. In the case of a map amendment (rezoning), the location of the property, its area, name of owner and the proposed change of classification shall be stated. Such notices shall appear in at least two (2) consecutive issues of the newspaper used as the official legal organ of the Town. (ord. of 3-26-1996)

Sec. 4-6-7 Notice to interested parties.

In the case of a map amendment (rezoning), a notice of the application number, the applicant's name, property location, current zoning classification and proposed zoning classification, and the date, time and location of the planning and zoning commission public hearing will be sent to all property owners within, but not limited to, four hundred (400) feet of the property proposed to be rezoned. Such notice shall be by U.S. mail, and shall be mailed so as to be received by local citizens not less than fifteen (15) days nor more than forty-five (45) days before the date of the hearing. All application files shall be placed in the custody of the zoning administrator, and shall be open to public inspection during regular office hours. (ord. of 3-26-1996)

Sec.4-6-8 Rezoning policies and procedures.

The following policies and procedures are hereby adopted by the Town to provide established guidelines for the following:

(1) The adoption of an amendment to the Comprehensive Zoning Ordinance which changes the text of the zoning chapter;

(2) The adoption of an amendment to the Comprehensive Zoning Ordinance which rezones property from one (1) zoning classification to another;

(3) The adoption of an amendment to the zoning plan and map sponsored by the Town;

(4) The adoption of an amendment to the zoning plan and map sponsored by the planning and zoning commission;

(5) The adoption of an amendment to the zoning plan and map sponsored by a citizen/property owner.

(ord. of 3-26-1996)

Sec. 4-6-9 Policies and procedures for Town planning commission initiated rezoning activities.

(a) All amendments to any existing zoning plan must be reviewed by the Town council. However, when the boundary lines of an established zoning district are proposed for change (rezoning), the planning and zoning commission shall prepare an evaluation and recommendation with regard to such proposed item of rezoning, considering each of the following factors:

- (1) Existing uses and zoning of nearby property;
- (2) The extent to which property values are diminished by the proposed zoning restrictions;
- (3) The extent to which the destruction of property values, resulting from existing zoning of specific parcels, promotes the health, safety, morals or general welfare of the public;
- (4) The relative gain to the public, as compared to the hardship imposed upon the individual property owner by the proposed zoning classification;
- (5) The suitability of the subject property for the zoning purposes as proposed;
- (6) The length of time the property has been vacant as zoned, considered in the context of land development in the area in the vicinity of the property;
- (7) Conformity with or divergence from the zoning map; and
- (8) Recommendations of the staff planner of the Northwest Georgia Area Planning and Development Commission.

(b) The public hearing will be convened at the advertised time and place and will be presided over by the chairman of that meeting.

(c) At each public hearing the chairman of the meeting will review for those present the following operating procedures for the public hearing:

(1) In order for a person in attendance to speak, the chairman must recognize that person. Upon rising to speak, the person recognized will first identify himself. The chairman may also request that the person furnish a home or business street address, as appropriate.

(2) The person speaking will be allowed a reasonable amount of time to express opinions and make comments on each separate element of the proposed revisions which he wishes to address.

(3) Additional persons will be recognized through the procedure described in subsections (1) and (2), for the purpose of addressing additional elements of the proposed revisions or to make additional points with regard to elements already addressed, but not to revisit points already made.

(4) Appropriate notes or minutes will be recorded by the planning and zoning commission at its public hearing.

(d) The zoning administrator shall prepare and submit the necessary minutes, evaluations and recommendations to the Town council prior to the meeting of the Town council at which action on the zoning request will be taken.

(e) The Town council will review the evaluations and recommendations from the planning and zoning commission and may choose to adopt or reject or modify the planning and zoning

commission's recommendations, considering the factors set forth in this section, or the business may be tabled for additional study to the next regular meeting.

(ord. of 3-26-1996)

Sec. 4-6-10 Policies and procedures for citizen/property owner initiated rezoning activities.

(a) An application for rezoning must be filed with the zoning administrator at the municipal building as prescribed in sections 4-6-2 through 4-6-5.

(b) The zoning administrator will inform the applicant, in writing, of the public hearing date required under the provisions of section 4-6-6.

(c) The zoning administrator shall require to be erected upon the property for which rezoning is to be considered a sign of no less than 4' x 4' announcing the public hearing, stipulating the date, time, and place for the hearing, the present zoning class and the proposed zoning class. The sign shall be clearly visible from a public street. It shall be erected not less than fifteen (15) days before the public hearing date. Failure to erect a sign will cause postponement of the hearing until this requirement is met.

(d) The public hearing held by the planning and zoning commission will follow the same procedure as prescribed in section 4-6-9(c). Thereafter the planning and zoning commission shall prepare an evaluation and recommendation for the board of commissioners with regard to the proposed action, considering each of the factors set out in section 4-6-9 (a).

(ord. of 3-26-1996)

4-7 DEVELOPMENT STANDARDS

Sec.4-7-1 Specifications.

Within the various zoning districts as indicated on the "Zoning Map of the Town of Talking Rock, Georgia," no building or structure shall be constructed or erected except as indicated in the following schedule:

NOTE: Setbacks shall be determined by measuring as follows: The right angle distance from the property line to the nearest wall. When any portion of a building (such as patio covers, porches, etc.) have roofs supported by columns, the column line shall be considered the same as the wall line. In any case whenever the roof overhang is more than four (4) feet, the setback will be measured to a point four (4) feet inside the outer edge of the roof nearest to the property line. (ord. of 3-26-1996)

Sec. 4-7-2. Permitted uses.

The following uses are permitted in R-TH townhouse districts:

- (1) Single-family residence townhouses.
- (2) Accessory buildings.

(ord. of 3-26-1996)

Sec. 4-7-3. Density standards.

Maximum density shall be twelve (12) townhouse units per acre. New rights-of-way developed by the owner and dedicated to the Town shall not be included as a part of the acreage for purposes of computing density requirements. (ord. of 3-26-1996)

Sec. 4-7-4. Common areas.

If common areas are used, the following shall apply:

(1) A townhouse development allows individual lot areas which may have less than the minimum lot area for dwelling units required in the zoning district from which the townhouse zoning district was created; provided, however, that land area at least equal to the reduction in each individual lot area shall be placed in common areas or open space.

(2) The land in streets, common off-street parking areas, and storm drainage detention facilities shall not be included as part of the open space or common areas requirement. However, full credit for lot reduction shall be allowed for detention facilities meeting the following criteria:

a. The maximum depth of the detention facility shall not exceed two and one-half (2 1/2) feet below the existing ground elevation measured beneath the rim of the depression.

b. The detention facility shall be designed and constructed to drain completely after each rain event.

c. The detention facility shall be designed and constructed with a minimum of three to one (3:1) slide slopes.

d. The detention facility shall be grassed or sodded or both.

e. Any other unique detention facility that is designed to be usable and maintained for recreation and/or landscaping features may be allowed for lot reduction credit if approved by the Town council to meet this intent. In addition, each two (2) square feet of existing and/or natural water surface or periodically flooded (based upon the 100-year flood contour elevation) or inundated land may be credited as one (1) square foot of land area for lot reduction purposes. Land below the 100-year flood elevation can only be substituted for one-half of the required open space or common areas.

(3) The plan for townhouse development shall provide for ownership, maintenance, and control of common areas and open space.

(4) Within districts allowing townhouse development, the usable common area or open space shall be fully credited to calculations of density.

(ord. of 3-26-1996)

Sec. 4-7-5. Minimum design and development criteria.

All townhouse developments in the R-TH zone must comply with the following standards:

(1) A townhouse development shall be located on a site that measures a minimum of three (3) acres in area.

(2) Each interior townhouse lot shall be at least twenty (20) feet in width. Each townhouse lot on a corner shall be at least forty-five (45) feet in width. Each interior townhouse lot that is intended to be at the end of a row of townhouses shall be at least thirty (30) feet wide. Each lot shall contain two thousand (2,000) square feet of area or more.

(3) The setback from an interior side lot line shall be a minimum of ten (10) feet for the townhouse which is located at the end of a row of townhouses. A minimum setback of twenty-five (25) feet from side streets shall be maintained. Front yard setback will be no less than thirty (30) feet. Rear yard setback will be no less than thirty (30) feet, exclusive of accessory buildings.

(4) An accessory building may abut an accessory building located on an adjacent lot in the townhouse district.

(5) No more than four (4) townhouses shall be built in a row having the same building line. In setting forth this requirement, board of commissioners intends to discourage the creation of long unbroken lines of townhouses. In a townhouse complex having more than four (4) dwelling units, the required minimum offset the building line shall be three (3) feet. A row or grouping of townhouses shall not exceed two hundred (200) feet in length.

(6) Every townhouse lot shall front on a public street.

(7) Not more than one (1) single-family residence shall be located on a townhouse lot.

(8) A minimum of two (2) paved off-street parking spaces shall be provided for each townhouse.

(9) Each townhouse lot shall have its own parking spaces with direct access to a public alley or street. Parking spaces and driveways are permitted in the front yard of a lot if a setback of fifty (50) feet is maintained for landscaping and other improvements.

(10) The off-street parking provided for a townhouse may have direct access to a service street only if the service street has a minimum right-of-way width of thirty (30) feet.

(11) Maximum height of a townhouse unit shall be thirty-five (35) feet.

(12) Maximum lot coverage shall be thirty-five (35) percent.

(ord. of 3-26-1996)

Sec .4-7-6. Procedure for rezoning.

Prior to commencing any construction within a proposed townhouse development, an application for rezoning along with a site plan as required shall be submitted to the zoning administrator. After review by appropriate Town staff, the planning and zoning commission shall hold a public hearing and shall recommend to the board of commissioners approval, approval with modification, or denial of the townhouse district rezoning request. The board of commissioners shall give final approval, shall give final approval with modification, or deny the townhouse district application, pursuant to the same procedure as required for any rezoning application as set forth in this zoning chapter. Each site plan submitted for review pursuant to this section shall be

drawn to an appropriate engineer's scale and shall contain the following minimum requirements:

(1) The boundaries of the site, topography and physical factors such as water bodies and hazardous conditions (e.g., floodplains).

(2) The use and approximate size, approximate location and approximate height of all proposed buildings and other structures on the site and all dwellings and lot lines within one hundred (100) feet of the site.

(3) Off-street parking, including circulation plans for vehicular and pedestrian movement.

(4) Approximate location and size of open spaces and landscape areas and proposed method of maintenance of common areas.

(5) Approximate location and width of all utility easements or rights-of-way and drainage facilities, including method of maintenance.

(6) Total acreage of the entire site and the density of the project calculated by dividing the total number of dwelling units by the total net acreage excluding rights-of-way dedicated to the public and storm drainage detention facilities except as allowed in this title. This calculated density figure shall in no event exceed the density figure listed in the density standards of this section.

(7) The approximate lot layout including lot location, size, width, depth and orientation. Minimum building development standards governing the development of the residential lots including but not limited to minimum building setbacks must also be included.

(8) The applicant must submit drawings indicating the general architectural themes, appearance and representative building types, as well as definitive covenants, easements, dedications and restrictions to be imposed on the land, buildings and structures.

(ord. of 3-26-1996)

Sec.4-7-7. Review criteria.

In reviewing a townhouse development site plan, the Town staff and the planning and zoning commission shall consider the following criteria to the extent relevant in each case, in evaluating the merits and purpose of a townhouse development. Individual lots, buildings, streets and parking areas should be designed and situated to:

(1) Minimize alteration of the natural features and topography;

(2) Minimize the adverse effects of noise and traffic on off-site residents;

(3) Minimize the area devoted to serve motor vehicles;

(4) Allow for proper and adequate access for firefighting purposes and access to service areas to provide garbage and waste collection and for other accessory services; and

(5) Achieve a compatible relationship between development and the land as well as with adjacent developments and land.

Sec. 4-7-8. Identification on official zoning map.

Any parcel approved for a townhouse site plan shall be identified on the official zoning map of the Town. (ord. of 3-26-1996)

Sec. 4-7-9. Permitted uses.

The following uses are permitted in R-CD cluster housing:

- (1) Single-family residence cluster housing.
- (2) Accessory buildings.

(ord. of 3-26-1996)

Sec. 4-7-10. Density standards.

The number of dwelling units permitted in a cluster housing development is related to the zoning classification of the property being developed. The cluster housing development shall in no case exceed the following:

A: One (1) dwelling unit per 15,000 sq. ft. of land

R-1A: One (1) dwelling unit per 1.5 acres of land

R-1B: One (1) dwelling unit per .69 acres of land

R-1: One (1) dwelling unit per 7,500 sq. ft. of land

R-2A: One (1) dwelling unit per 6,000 sq. ft. of land

R-2: One (1) dwelling unit per 6,000 sq. ft. of land

C-1A: One (1) dwelling unit per 6,000 sq. ft. of land

C-1: One (1) dwelling unit per 6,000 sq. ft. of land

C-2: One (1) dwelling unit per 6,000 sq. ft. of land

M: One (1) dwelling unit per 6,000 sq. ft. of land

MH: One (1) dwelling unit per two (2) acres of land.

(ord. of 3-26-1996)

Sec.4-7-11. Common areas.

(a) A cluster housing development allows individual lot areas which may have less than the minimum lot area for dwelling units required in the zoning district from which the cluster housing zoning district was created; provided, however, the land area at least equal to the reduction in each individual lot area shall be placed in common areas or open space.

(b) The land in streets, common off-street parking areas, and storm drainage detention facilities shall not be included as part of the open space or common area requirement. However, full credit for lot reduction shall be allowed for detention facilities meeting the following criteria:

(1) The maximum depth of the detention facility shall not exceed two and one-half (2 1/2) feet below the existing ground elevation measured beneath the rim of the depression.

(2) The detention facility shall be designed and constructed to drain completely after each rain event.

(3) The detention facility shall be designed and constructed with a minimum of three to one (3:1) slopes.

(4) The detention facility shall be grassed and/or sodded.

(5) Any other unique detention facility that is designed to be usable and maintained for recreation or landscaping features or both may be allowed for lot reduction credit if approved by the board of commissioners of the Town to meet this intent. In addition, each two (2) square feet of existing and natural water surface, or periodically flooded (based upon the 100-year flood contour elevation) or inundated land may be credited as one (1) square foot of land area for lot reduction purposes. Land below the 100-year flood elevation can only be substituted for one-half of the required open space or common areas.

(c) The plan for cluster housing development shall provide for ownership, maintenance and control of common areas or open space or both.

(d) Within districts allowing cluster housing developments, the usable common area or open space shall be fully credited to calculations of density.

(ord. of 3-26-1996)

Sec.4-7-12. Minimum design and development criteria, (a)

Minimum cluster housing group site size:

Zoning
classification
Minimum site size

A: 3
acres

R-1A:
3 acres

R-1B:

3 acres

R-1: 3
acres

R-2A: 24,000 sq.
ft.

R-2: 24,000 sq.
ft.

C-1A: 24,000 sq.
ft.

C-1: 24,000 sq.
ft.

C-2: 24,000 sq.
ft.

M: 24,000 sq. ft.

MH: 2
acres

(b) The minimum development standards for individual lot size, width and depth shall not apply if modifications or variations from these standards are shown on an approved site plan. Building setbacks may also be modified or varied except for the following:

(1) Within the A, R-1A, R-1B, and R-1 districts:

a. Buildings shall set back twenty-five (25) feet from any street right-of-way.

b. Within a cluster housing development, the rear of a cluster housing dwelling unit will have no setback requirement and the sides of a cluster housing dwelling unit will have no setback requirement for one (1) side only; provided, however, that every cluster housing dwelling unit shall have at least one (1) side with a setback of at least fifteen (15) feet from another cluster housing dwelling unit. In addition, a cluster housing dwelling unit shall have a side setback of at least fifteen (15) feet and a rear setback of at least forty (40) feet from the property line of any adjacent property that is not developed as a part of the cluster development.

(2) Within the R-2A, R-2, C-1A, C-1, C-2 and M districts:

a. Buildings shall set back a minimum of fifteen (15) feet from any street right-of-way.

b. Side setbacks for cluster housing dwelling units from the perimeter property boundary shall be as follows:

1. For a cluster group of four (4) or less dwellings, eight (8) feet each side.

2. For a cluster group of five (5) or more dwellings, fifteen (15) feet.

c. The rear of any cluster housing development unit shall have a rear setback

of at least twenty-five (25) feet from the property line of any adjacent property that is not developed as a part of the cluster housing development.

d. Otherwise, in such districts and within a cluster development, a cluster housing dwelling unit shall have no rear setback requirements and the sides of a cluster housing dwelling unit will have no setback requirement for one (1) side only; provided, however, that every cluster housing dwelling unit shall have at least one (1) side with a setback of at least fifteen (15) feet from a side lot line.

(c) Maximum building height-thirty-five (35) feet.

(d) Maximum land coverage:

(1) Within the A, R-1A, R-1B, and R-1 districts, maximum land coverage shall be the same as the maximum building lot coverage listed within the development standards of the residential district, calculated by dividing the total ground coverage of the several buildings within a cluster housing development by the total lot area of the several lots and the common open space.

(2) Within the R-2A, R-2, C-1A, C-L C-2 and M districts, building coverage may not exceed more than forty (40) percent of the gross land area. No more than seventy (70) percent of the gross land area may be covered by impermeable surfaces including, but not limited to, buildings, off-street parking and drives, tennis courts, and the like, nor by swimming pools and drainage facilities. On the remaining thirty (30) percent of the gross land area, permeable surfaces may be contained within either individual building lots or common areas or within a combination of the two (2) areas. Detention facilities meeting the following criteria may be used to help achieve the thirty (30) percent permeable surface requirement:

a. The maximum depth of the detention facility shall not exceed two and one-half (2 1/2) feet below the existing ground elevation measured beneath the rim of the depression.

b. The detention facility shall be designed and constructed to drain completely after each rain event.

c. The detention facility shall be designed and constructed with a minimum of three to one (3:1) side slopes.

d. The detention facility shall be grassed or sodded.

e. Any other unique detention facility that is designed to be usable and maintained for recreation or landscaping features or both may be used to meet the thirty (30) percent permeable surface requirement if approved by the Town council to meet this intent. In addition, each two (2) square feet of existing or natural water surface or both or periodically flooded (based on the 100-year flood contour elevation) in inundated land may be credited as one (1) square foot of land area to meet the thirty (30) percent permeable surface requirement.

(e) To preserve the integrity of the surrounding area, the Town council may require certain screening buffers as part of the new development, all as provided for elsewhere in this chapter.

(f) All cluster housing developments shall be designed so that no separate dwelling unit will be constructed on top of another separate dwelling unit.

(ord. of 3-26-1996)

Sec. 4-7-13. Procedure for rezoning.

Prior to commencing any construction within a proposed cluster housing development, an application for rezoning along with a site plan as required shall be submitted to the zoning administrator. After review by appropriate Town staff. The planning and zoning commission shall hold a public hearing and shall recommend to the Town council approval, approval with modification, or denial of the cluster housing rezoning request. The Town council shall give final approval, shall give final approval with modification, or deny the cluster development application, pursuant to the same procedure as required for any rezoning application as set forth in this zoning chapter. Each site plan submitted for review pursuant to this section shall be drawn to an appropriate engineer's scale and shall contain the following minimum requirements:

- (1) The boundary of the site, topography and physical factors such as water bodies and hazardous conditions (e.g., floodplains).
- (2) The use and approximate size, approximate location and approximate height of all proposed buildings and other structures on the site and all dwellings and lot lines within one hundred (100) feet of the site.
- (3) Off-street parking, including circulation plans for vehicular and pedestrian movement.
- (4) Approximate location and size of open spaces and landscape areas and proposed method of maintenance of common areas.
- (5) Approximate location and width of all utility easements or rights-of-way and drainage facilities, including method of maintenance.
- (6) Total acreage of the entire site and the density of the project calculated by dividing the total number of dwelling units into the total net acreage excluding rights-of-way dedicated to the public common off-street parking areas and storm drainage detention facilities, except as allowed in this title. This calculated density figure shall in no event exceed the density figure listed in the density standards of this section.
- (7) The approximate lot layout including lot location, size, width, depth, and orientation. Minimum building development standards governing the development of the residential lots including but not limited to minimum building setbacks must also be included.
- (8) The applicant must submit drawings indicating the general architectural themes, appearance and representative building types, as well as definitive covenants, easements, dedications and restrictions to be imposed on the land buildings and structures.

(ord. of 3-26-1996)

Sec. 4-7-14. Review criteria.

In reviewing a cluster housing development site plan, the Town staff and the planning and zoning commission shall consider the following criteria to the extent relevant in each case, in evaluating the merits and purpose of a cluster plan. Individual lots, buildings, streets and parking areas should be designed and situated to:

- (1) Minimize alteration of the natural features and topography.
- (2) Minimize the adverse effects of noise and traffic on off-site residents.

(3) Minimize the area devoted to serve motor vehicles.

(4) Allow for proper and adequate access for firefighting purposes and access to service areas to provide garbage and waste collection and for other accessory services.

(5) Achieve a compatible relationship between development and land as well as with adjacent developments and land.

(ord. of 3-26-1996)

Sec. 4-7-15. Identification on official zoning map.

Any parcel approved for a cluster housing site plan shall be identified on the official zoning map of the Town. (ord. of 3-26-1996)

4-8 MANUFACTURED HOUSING SUBDIVISIONS AND RECREATIONAL VEHICLE PARKS*

Sec.4-8-1. Purpose of the MH zone (one-family manufactured housing residential district).

The purpose of this zone is to provide a zone where lots may be purchased by individuals for the purpose of permanently locating a manufactured home or constructing a single-family residence. All subdivisions developed in these zones shall be developed according to the requirements of the Land Subdivision Ordinance of the Town. (ord. of 3-26-1996)

Sec. 4-8-2. Regulations and uses applicable to the MH zone.

The following uses and regulations shall govern and control in the MH zone, to wit:

(1) Minimum subdivision size. The minimum subdivision size shall be two (2) acres.

(2) Uses permitted.

a. One-family dwellings, detached;

b. One-family manufactured homes;

c. Accessory buildings.

(3) Building setbacks. There shall be a front setback for structures in a MH zone of not less than thirty (30) feet from the building to the front lot line.

(4) Building side yard requirements. Each lot shall have two (2) side yards, each having a width of not less than twenty-five (25) feet, except on corner lots in which case the side yard adjacent to the street shall be not less than fifty (50) feet.

(5) Rear yard requirements. There shall be a rear yard in an MH zone of not less than twenty (20) feet.

(6) Building site area required. Every lot in an MH zone shall have a minimum width of sixty (60) feet and a minimum area of two (2) acres of land.

(7) Lot coverage. Not more than thirty (30) percent of the area of a lot in an MH zone shall be covered by buildings or structures.

(8) Other requirements.

a. Any additions to a manufactured home or accessory buildings constructed on a lot shall comply with the requirements of the building, electrical, plumbing and gas codes.

b. The wheels shall be removed from each manufactured home occupying a lot in the subdivision.

c. Each manufactured home shall be sufficiently supported, tied down and the under carriage completely enclosed.

d. Before a certificate of occupancy is issued, the required permits and inspections must be obtained from the building department and waterproof storage building (minimum size one hundred fifty (150) cubic feet) must be constructed on the lot.

(ord. of 3-26-1996)

Sec. 4-8-3. Recreation vehicle parks.

(a) Recreation vehicle parks are permitted pursuant to the following regulations.

(b) Recreation vehicle parks or both will be permitted only upon the approval of location by the zoning administrator. Such approval will be based upon but not necessarily limited to being an acceptable location with reference to the following criteria:

- (1) Environmental compatibility;
- (2) Availability of community facilities, utilities and services;
- (3) Traffic hazards; and
- (4) Suitability of the site for such development.

(c) An applicant may make application for approval of a site by sending to the Town zoning administrator a certified letter, at least ten (10) days prior to the regular meeting of the planning commission, which outlines the request. The request shall state whether the petitioner desires the approval of a site for the construction of a recreation vehicle park. It shall also include an adequate description of the property proposed, including the acreage of the property. The request shall also include the name and address of the person to be notified of the hearing.

(d) The zoning administrator will approve the location of a recreation vehicle park only after a public hearing has been held.

(e) After the zoning administrator has approved the location of the site, the development plan must be approved by the planning and zoning commission before development can begin. To secure approval of the development plan, submit a letter of request by registered mail to the Town zoning administrator at least ten (10) days prior to the next regular meeting of the planning and zoning commission, including four (4) copies of the scaled drawings that give all the information as required by this section, including plans for the required improvements. Include the name and address of the person to be notified of the hearing.

(ord. of 3-26-1996)

Sec. 4-8-4. General requirements for recreation vehicle park.

General requirements that must be met for development of a recreation vehicle park are as follows:

(1) The minimum gross area of a recreation vehicle park shall be five (5) acres, and it shall front on a street designated as a major thoroughfare according to the street and traffic or major thoroughfare plan of the Town.

(2) No recreation vehicle or camping trailer or other such unit shall be located closer than fifty (50) feet from the right-of-way of any public street or highway. No unit may be located less than thirty (30) feet from the centerline of any interior street in the park. No unit shall be allowed within one hundred (100) feet of an existing residence.

(3) A dense green belt of evergreen trees or shrubs or both not less than six (6) feet high after one (1) growing season and which at maturity is not less than twelve (12) feet high shall be located and effectively maintained at all times along all park boundary lines except the street side.

(4) Each park shall provide a recreational area equal in size to at least eight (8) percent of the gross area of the park. Streets, roads, drives, parking areas, required setbacks and park service facility areas shall not be included in the required recreational area. The recreational areas must be land that is usable for the purpose and not, for example, low wetland.

(5) Coin-operated laundries, laundry and dry cleaning pick-up stations and other commercial convenience establishments may be permitted in the recreation vehicle park provided:

- a. They are subordinate to the residential character of the park.
- b. They are located, designed and intended to serve only the needs of persons living in the park.
- c. Sufficient parking as normally required for the type of business is provided; provided, however, that not more than ten (10) percent of the total amount of the park is used for a combination of these establishments and their parking, and
- d. The establishment shall present no visible evidence of their commercial nature to the areas outside the park.

(6) All exterior park lights shall be so located and shielded as to prevent direct illumination of any areas outside the park.

(7) Each recreation vehicle site shall have a minimum width of forty (40) feet and, if situated on a public street corner, it shall have an additional width above forty (40) feet to provide for the additional street setback.

(8) Recreation vehicle, travel trailer and camper stands shall be designed to provide an average of at least twenty-five (25) feet between units, and provided further that no unit or part of its structure shall be closer than fifteen (15) feet to any other unit or any part of its structure. Each unit shall be located at least ten (10) feet from the green belt.

(9) Each recreation vehicle, travel trailer or camper trailer site shall be provided with a stand consisting of either a solid concrete slab or two (2) concrete ribbons of a thickness and size adequate to support the maximum anticipated loads during all seasons. When concrete ribbons are used, the area between the ribbons shall be filled with a layer of crushed rock.

(ord. of 3-26-1996)

Sec. 4-8-5. Improvements required for recreation vehicle park.

(a) Improvements required for development of a recreation vehicle park are as follows:

(1) Sanitary sewers. The recreation vehicle park shall be provided with an adequate sanitary sewer system that complies with the requirements of the state health department and the Town so that each recreation vehicle or travel trailer stand and buildings are skewered.

(2) Interior streets or roads. Streets dedicated to the public use shall be planned and developed in accordance with the land subdivision ordinance of the Town. In general, however, streets within a recreation vehicle park shall be privately owned, constructed and maintained. Such streets shall be well drained, provided with a minimum surface of twelve (12) feet.

(3) Water. A potable water supply and system meeting the requirements of the state health department and the Town shall be provided by the park owner.

(4) Easements. Publicly dedicated easements of proper size for their intended purpose shall be provided within the park.

(5) Utility placement. All service lines, including electric, water, sewer or gas lines shall be buried a minimum of twenty-four (24) inches below the finished ground surface of the park and shall be provided with adequate valve systems to allow the cutoff of utility service to a recreation vehicle stand at the recreation vehicle stand and at the entrance of the utility service from the stand to the trunk line of a utility system.

(6) Garbage and refuse. Adequate garbage and refuse containers, maintained attractively in a rodent and vermin proof condition, shall be easily accessible to the pickup vehicle and within or easily accessible to each recreation vehicle stand, each commercial building and in sufficient number and placement for recreation areas.

(7) Electrical power supply. Each stand shall be provided with an adequate, properly grounded waterproofed electrical receptacle with a minimum rated caption of one hundred (100) amperes.

(8) Entrances and exits. Entrances and exits shall meet the standards of the state highway department.

(b) All of the above improvements shall be done in strict accordance with the ordinances and standards of the Town and approval of the appropriate Town officials.

(c) The fee for issuing such permit and inspection by the Town to see that the work is done in accordance with these regulations shall be five dollars (\$5.00) for each such permit issued. No permit shall be required for Town work done by Town crews. Town permits for work on state highway rights-of-way shall only be issued contingent upon approval of the work by the state department of transportation.

(ord. of 3-26-1996)

4-9 SIGN REGULATIONS

Sec. 4-9-1. Compliance required.

All signs within the Town shall be erected, constructed, or maintained in accordance with the provisions of this article and applicable sections of the Town's building code. Only those signs that are permitted by this article shall be erected in the Town. (ord. of 3-26-1996)

Sec. 4-9-2. Findings.

After extensive research and study and deliberation the Town council has determined:

(1) Proper regulation of signs is a necessary prerequisite to a peaceable, orderly and safely designed business environment, the protection of property values and the promotion of tourism in this unique community;

(2) An improperly regulated sign environment poses health and safety hazards to the public;

(3) The result of effective sign regulation will be to lessen hazardous conditions, confusion and visual clutter caused by the proliferation, improper placement, illumination and excessive height and size of signs which compete for the attention of pedestrian and vehicular traffic; and

(4) Through proper regulation of signs, the attractiveness and economic well-being of the Town will be enhanced as a place to live, work, and conduct business.

(ord. of 3-26-1996)

Sec. 4-9-3. Purpose and intent.

(a) The purpose and intent of this article is to establish standards for the fabrication, erection, use, maintenance and alteration of signs, symbols, markings, or advertising devices within the Town. These standards are designed to protect and promote the health, safety, and welfare of persons within the Town by providing regulations which allow and encourage creativity, effectiveness, and flexibility in the design and use of such devices while promoting traffic safety and avoiding an environment that encourages visual blight.

(b) It is also the purpose of this article to prohibit the future erection, placement, or location of off-site, portable, and certain other types of signs determined to be detrimental to the aesthetic sense and public health, safety, and general welfare of the citizens of the Town.

(c) Any sign, device or display allowed under this article may contain, in lieu of any other copy, any otherwise lawful noncommercial message that does not direct attention to a business operated for profit, or to a commodity or service for sale, and that complies with size, lighting, and location requirements of this article.

(d) A determination has also been made by the Town council that the regulations contained in this article are the minimum amount of regulations necessary to achieve the purposes set out

above.

(ord. of 3-26-1996)

Sec. 4-9-4. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Advertising device means any structure or device erected or intended for the purpose of displaying advertising situated upon or attached to real property or for the purpose of bringing the subject thereof to the attention of others.

Animated sign means a sign with action, motion, or changing colors which requires electrical or wind energy. This definition does not include signs which indicate time, temperature, or date.

Area of sign face means the area, in square feet, within a continuous perimeter enclosing the limits of writing, representation, emblem, or any figure of similar character together with any frame, other material, open space, or color forming an integral part of the display or used to differentiate such sign from the background against which it is placed. The area of the support structure shall not be included in calculating area of sign face.

Banner means a sign with or without characters, letters, illustrations, or ornamentations applied to cloth, paper, plastic or fabric of any kind with only such material for a backing.

Building inspector means a building inspector of the Town.

Bulletin board means a sign used to announce meetings or programs to be held on the premises of a church, community recreation center, school, auditorium, library, museum, or similar noncommercial places of public assembly.

Business sign: See On-site sign.

Clock sign means any timepiece erected outside of any building for the purpose of advertising the business on the premises on which it is located.

Construction sign means a sign erected and maintained on premises announcing the proposed or existing construction of a building or project.

Directory sign means a serial sign which identifies the names of businesses, offices, professionals, industries or other entities located within a planned center, strip shopping center, mall, group development project or similar grouping of buildings. Directory signs shall consist of not less than two (2) vertical structural supports.

Double-faced sign means a sign which has two (2) display areas opposite each other or where the interior angle formed by the display areas of sixty (60) degrees or less, where one face is designed to be seen from one direction and the other faces from another direction.

Flashing sign means a sign, the illumination of which is not kept constant in intensity at all times when in use, and which exhibits marked changes in lighting effects. Illuminated signs which indicate only the time, temperature, or date shall not be considered as flashing signs.

Frontage means the distance for which property abuts one (1) side of street, road, or highway, or other public way measured along the dividing line between the property and such road, or highway, or other public way.

Frontage, building means the area in square feet of the front exterior wall of a particular establishment.

Ground clearance means the distance in vertical feet from the ground, sidewalk or other surface to the lowest point of the sign face or sign structure, whichever is lower.

Ground sign means a sign whose support structure is embedded in the ground and is wholly independent of a building for support.

Height of sign means the vertical distance in feet from the ground, sidewalk or other surface to the highest point of the sign face or sign structure, whichever is higher.

Illuminated sign, direct means a sign illuminated by an internal light source.

Illuminated sign, indirect means a sign illuminated by an external light source directed primarily toward such sign.

Location means a site or building occupied, or unoccupied, or available for occupancy by one (1) or more businesses, firms, industries, agents or similar entities.

Lot, comer means a lot which abuts on two (2) or more streets, or roads or both, at their intersection, or upon a curved street, provided that tie two (2) sides of the lot, or the tangent to the curve of the street line at its starting points at or within side lines of the lot, intersect to form an interior angle of not more than one hundred thirty-five (135) degrees.

Lot, through means a lot other than a corner lot having frontage on more than one (1) street.

Marquee means a roofed structure attached to and supported by a building and projecting over public or private sidewalks or rights-of-way.

Marquee sign means a business sign suspended from the ceiling of a marquee. A minimum ground clearance of seven and one-half (7 1/2) feet shall he maintained.

Multilane divided highway means a highway consisting of four (4) or more lanes with two (2) or more lanes each in opposing directions separated by a grassed or barrier median.

Nonconforming sign means any sign which does not conform to the provisions of this article.

Nonconforming use means any use of a building or of land that does not conform to this article for the zoning district in which it is situated as of July 26,1971.

Off-site sign means a sign which is not located upon the premises of the business or entity indicated or advertised by such sign. This includes products advertised in conjunction with a business entity.

On-site directional sign means a sign located upon the premises of a business for the purpose of directing traffic.

On-site sign means any notice or advertisement, pictorial or otherwise, which directs attention to the name of a business or to goods, commodities, products, services or entertainment sold or offered upon the premises where such sign is located.

Owner means the person who has the legal right or exclusive title to the sign.

Permittee means the person who secures a permit from the Town to erect, install, attach, or paint a sign.

Planned center, office, commercial, or industrial means a group of two (2) or more retail stores, service establishments, offices, industries, or any other businesses planned to serve the public, which is in common ownership or condominium ownership.

Political sign means a sign identifying or urging voter support for a particular election issue, political party, or candidate for public office.

Portable sign means any sign, whether on its own trailer, wheels or otherwise, which was designed and manufactured so that it can be transported from one (1) place to another, and sidewalk and "A." frame signs as defined in this section.

Reader board means a sign so constructed that the alphabetic and numeric characters may be easily changed.

Real estate sign means a temporary sign erected by the owner, or his agent, advertising the real property upon which the sign is located for rent, lease, or for sale.

Roof sign means a sign mounted upon any portion of the roof of a building or structure including the upper slopes of a gambrel or mansard roof or any variations of such roofs. Signs mounted on the lower slope of a gambrel or mansard roof shall be considered wall signs.

Serial sign means a sign which contains individual panels arranged vertically or horizontally or both in rows between two (2) vertical supports, each panel identifying a separate business. Also, a sign which is made of a single large panel on which the names of individual businesses are painted or attached vertically or horizontally in rows identifying separate businesses. Serial signs may be wall or ground signs. Ground signs shall have a minimum of two (2) vertical supports.

Shopping center. See definition for planned center.

Sidewalk and A-frame signs mean a ground sign whose support structure is not imbedded in the ground. These signs are usually, but not always, placed along the sidewalk or road frontage of a business to advertise cigarettes, gasoline, specials and other specific items, events, etc.

Sign means a device or representation for visual communication which is used for the purpose of bringing the subject thereof to the attention of others.

Sign face means the part of a sign that is or can be used for advertising purposes.

Swinging ground sign means a sign suspended from a horizontal structural support supported by vertical structural steel columns or wooden posts.

Swinging or projecting wall sign means a sign projecting more than eight (8) inches from the outside wall of any building upon which it is located and suspended from supports of any kind. Signs may not exceed two (2) square feet in area.

Temporary sign means a sign of nonpermanent nature. All such signs shall be removed within ten (10) days after the purpose for which the sign is intended to advertise has been accomplished. Not a portable sign.

Wall sign means a sign painted on, applied to or mounted to the wall or surface of a building or structure, the sign display surface of which does not project more than eight (8) inches from the outside wall of such building or structure. The total lettering on one (1) wall of a building or structure shall constitute one (1) wall sign. Signs shall not project above the top edge of a wall or above or below the front wall, edge or face of a marquee.

Zoning administrator means the zoning administrator of the Town.

(ord. of 3-26-1996)

Sec. 4-9-5. Permit-Required.

(a) No signs except those listed in section 4-9-4 shall be erected, painted on a wall, hung, placed, or structurally altered without a permit from the zoning administrator. The zoning administrator shall only issue a permit for the painting, erection or construction of a sign which meets the requirements of this article and applicable sections of the Town's building code. Permits may be issued to the owner if the area of a sign face does not exceed thirty-two (32) square feet and the height of a ground sign does not exceed six (6) feet. Permits may also be issued to the owner of painted wall signs. Otherwise, the permit shall be issued to a licensed contractor. All applications for serial sign permits must be signed by the owner of the property upon which the sign is erected. All serial signs shall be owned and maintained by the owner of the property upon which the sign is erected.

(b) Wooden posts or cross members of any ground sign or swinging ground sign shall not be less than 4" x 4" nominal size in cross-section and shall be of pressure treated or rot resistant material. All permanent ground signs shall be set in concrete. Swinging ground signs shall consist of not less than two (2) vertical structural supports.

(c) Each applicant shall, upon request of the zoning administrator, submit any additional information deemed necessary.

(d) All applicants for signs using electrical energy must have a licensed electrical contractor perform all electrical work.

(ord. of 3-26-1996)

Sec. 4-9-6. Same—Application form.

Application for a permit to erect, hang, paint or place all signs not exempted by section 4-9-11 shall be submitted on a form obtainable from the zoning administrator. (ord. of 3-26-1996)

Sec. 4-9-7. Same—Drawings; specifications.

Application for a permit to erect, hang, paint or place a sign shall be accompanied by plans drawn to an appropriate scale showing:

- (1) Area of each sign face in square feet excluding the support structure;

- (2) Dimensions of each sign face;
- (3) Total area of all sign faces. If a double-faced sign, the total area of one (1) side only;
- (4) Dimensions of all structural materials and description of materials used. Wooden components shall not be less than 4" x 4" nominal size in cross-section size and shall be of pressure-treated or rot-resistant wood;
- (5) Overall height and width of the sign;
- (6) The ground clearance from the finished grade at the point of installation to the bottom edge of the lowest portion of a sign face or sign structure. Note: The zoning administrator shall determine the minimum ground clearance required in consideration of setbacks, motorist visibility, pedestrian safety and all other pertinent factors. Unless otherwise required by these regulations or the zoning administrator, the minimum ground clearance shall be six (6) feet;
- (7) Dimensions of foundations and description of materials used including reinforcing steel, where applicable, anchor bolts, etc.;
- (8) If a swinging or projecting wall sign, the proposed method of fastening the sign to the building structure. Swinging or projecting wall signs may not exceed two (2) square feet in area;
- (9) If a wall sign, the dimensions of the wall and the sign to be affixed to or painted on the wall and the proposed method of fastening the sign to the building structure;
- (10) For ground signs, a plot plan showing the street setback distance from the outermost edge of the sign face or sign structure. If the sign is located in the corner of a lot with two (2) street frontages, the setbacks from both streets right-of-ways are to be shown;
- (11) For any ground sign over six (6) feet in height, the plans shall be sealed and signed by a licensed architect or engineer certifying that the sign, its support structure, anchor bolts and foundation are designed to withstand ninety (90) miles per hour wind pressure requirements;
- (9) Electrical plans and specifications, including method of illumination (internal, external), if any.

(ord. of 3-26-1996)

Sec. 4-9-8. Same-Expiration.

A sign permit shall become null and void if the sign for which the permit was issued has not been erected, installed or affixed within six (6) months after the date of issuance. No refunds will be made for a permit after the permit is issued. If later a sign is desired to be erected at the same location, a new application for the sign must be processed and another fee paid in accordance with the fee schedule applicable at such time.

Sec. 4-9-9. Same-fees.

(a) No permit shall be issued until the appropriate application has been approved by the zoning administrator and the chief building official and fees have been paid as provided below:

New Signs and Moving Existing Signs

Area of sign face
in square feet
Fee

1 thru 64
\$10.00

65 thru 96
0.20/sq. ft.

97 thru 128
0.25/sq. ft.

Over 128
0.30/sq. ft.

Maintenance and Repairs to Existing Signs

Routine maintenance such as replacing light bulbs, advertising panels, painting, etc.
No Fee

Repairs or alterations involving structural components:

Value of Work
Fee

\$0 thru \$1,000.00
\$10.00 for the first \$1,000.00

\$1,001.00 thru \$15,000.00
\$5.00 for each additional \$1,000.00 or fraction thereof.

Over \$15,000.00
\$80.00 for the first \$15,000.00 plus \$1.00 for each additional \$1,000.00 or fraction thereof.

(b) Where work for which a sign permit is required is started or proceeded with prior to obtaining such permit, the fees specified in this section shall be doubled, but the payment of such double fee shall not relieve any person from fully complying with the requirements of this article in the execution of the work nor from any other penalties prescribed by this Code. (ord. of 3-26-1996)

Sec. 4-9-10. Public liability insurance; occupational and contractor's licenses required.

It shall be unlawful for any person to engage in the business of erecting, painting or maintaining signs within the Town, unless and until such person shall have obtained a Town occupational license and the applicable contractor's license. No permit for a sign which extends over a public right-of-way shall be issued until the owner or person in control of such a sign shall have obtained liability insurance in the sum of twenty-five thousand dollars (\$25,000.00) for property damage for any one (1) claim and public liability insurance in an amount not less than one hundred thousand dollars (\$100,000.00) for injuries, including accidental death to one (1) person, insuring the municipality against all loss, cost, damage, personal injury or expense incurred or sustained by or recovered against the Town by reason of the construction or maintenance of such a sign. The certificate of insurance shall state that the Town is an additional insured and that the insurance carrier will notify the Town thirty (30) days in advance of any termination or restriction of coverage. The provisions of this section shall not apply to signs erected by the municipality, nor to temporary signs, banners, flags or other advertising devices authorized by the Town council and signs not requiring a permit as listed in section 22-321. (ord. of 3-26-1996)

Sec. 4-9-11. Signs not requiring a permit.

The following signs shall not require a permit:

- (1) Signs to regulate traffic on public streets and highways.
- (2) Signs required to be posted by law.

- (3) Warning signs and no-trespassing signs.
- (4) Signs established by governmental agencies.
- (5) Signs indicating bus stops, taxi stands, and similar transportation facilities.
- (6) Signs not exceeding four (4) square feet in area giving information concerning the location or use of accessory off-street parking facilities or loading and unloading facilities.

(7) Temporary no illuminated real estate or construction signs, which shall not exceed ten (10) square feet, in the A, R-1A, R-1B, R-1, R-2A, R-2, R-TH, R-CD, and MH zoning districts and shall not exceed thirty-two (32) square feet in the C-1A, C-1, C-2, M, and M-1 zoning districts. Such signs shall be located on the lot or building for sale, lease or being constructed, shall not be located on any public right-of-way, and are limited to one (1) sign per street frontage. Such signs shall be removed within ten (10) days after the subject lot or building is leased, sold, or construction is completed.

(8) Signs of a noncommercial nature and in the public interest, erected by, or on the order of, a public officer in the performance of his duty, such as public notices, safety signs, danger signs, trespassing signs, traffic and street signs, memorial plaques, honorary signs, signs of historical interest, and the like.

(9) Driveway entrance signs on private property directing traffic movement, each not exceeding six (6) square feet in area of sign face and not more than forty-two (42) inches overall height. Such signs shall not be allowed on any public right-of-way, nor be so placed as to obstruct the view of motorists.

(10) Any signs not visible from public thoroughfares or any sign within a business, office, mall, or other enclosed area.

(11) Off-side nonilluminated church, civic, school, or other quasi-public signs not exceeding six (6) square feet in area.

(12) Temporary signs on private land involved in campaigns of religious, charitable, civic, fraternal, political, and similar organizations provided such signs shall not exceed sixteen (16) square feet in area and shall not be closer than any right-of-way line of public street. Such signs shall be approved by the zoning administrator and shall not be erected more than sixty (60) days prior to the event and shall be removed within ten (10) days of the end of the event.

(13) Signs advertising festivals, special public events, etc., provided such signs shall not be closer than any right-of-way line of any public street and do not exceed sixteen (16) square feet in area cumulatively on one (1) piece of property. Such signs shall be approved by the zoning administrator and shall not be erected more than sixty (60) days prior to the event and shall be removed within ten (10) days of the end of the event.

(14) On-site model home, model apartment, sales office signs, etc., within a residential development. Such signs shall not exceed six (6) square feet in area and shall be no closer than any right-of-way line of any public street. Such signs shall be limited to one (1) per sales office, model, home, etc.

(15) On-site no-trespassing, no-hunting, and similar public notice type signs less than six (6) square feet in area. No such signs shall be allowed on any public right-of-way.

(16) One (1) on-site temporary sign (not a portable sign) announcing the initial opening or final closing of a business or service, provided such sign shall not exceed thirty-two (32) square feet. Such signs shall be approved by the zoning administrator for a maximum period of seven (7) days for initial opening signs and four (4) weeks for final closing signs, after which they shall be removed. The sign shall be placed so as not to obstruct the view of motorists, create a safety hazard or be located upon any public right-of-way.

(17) Signs painted on or applied to the window or door of a building relating to the business conducted in such building.

(18) On-site directional signs not exceeding sixteen (16) square feet in area of sign face and located upon the premises of a business for the purpose of directing traffic. Such signs shall not be allowed upon any public right-of-way nor be so placed as to obstruct the view of motorists.

Sec4-9-12. Signs and devices prohibited.

(a) The following types of signs or advertising devices are prohibited in all zoning districts of the Town:

(1) Roof signs and signs mounted on the top of a wall. Signs may be mounted on the lower slope of a mansard or gambrel roof;

(2) Sidewalk and A-frame signs;

(3) Portable signs;

(4) Swinging or projecting wall signs in excess of two (2) square feet in area;

(5) Animated signs involving motion, rotation, sound or flashing lights;

(6) Flashing, blinking, or varying light intensity devices, lights, signs or portions of signs, except time, temperature and date signs;

(7) Signs on public rights-of-way except signs exempt under section 4-9-11(1), (2), (3), (4), (5), (8) and (11);

(8) Signs which are in imitation of an official traffic sign or signal or contain the words "stop," "go," "slow," "caution," "danger," "warning," or similar words excepting construction signs and barricades;

(9) Nonhandheld air or gas filled devices, balloons, pennants, streamers and similar devices except as provided in section 4-9-2 l(5)a. and b.;

(10) Flags or banners, except official flags or banners of the United States, State of Georgia, Pickens County, Town of Talking Rock, or other public service entities and as provided in section 4-9-2 l(5)c. Provided further, however, that banners may be displayed in certain circumstances, subject to the following terms and conditions:

(A) Every business, service, entity or other organization located in the Town shall be permitted to display one (1) banner for a fourteen-day period, three (3) times per year or a one-time period of six (6) consecutive weeks per year.

(B) The maximum size of any such banner displayed shall be no more than fifty (50) square feet.

(C) Each such banner displayed shall be made from vinyl or canvas with a minimum weight of eight (8) ounces. Each such banner shall have metal grommets placed fifteen (15) inch on centers and in the corners for attachment. All edges of each such banner shall be hemmed and reinforced by adding reinforcing material such as rope or nylon tape to the edges.

(D) Each banner shall be mounted on a building or similar solid structure. A banner displayed pursuant to this subsection shall not be mounted on poles, wires or other such devices.

(E) Each time a banner is displayed pursuant to the provisions of this subsection the owner must possess a permit to display such banner. Application for permit shall be made to the office of the chief building official for the Town of Talking Rock prior to the display of the banner. No banner shall be displayed until a permit has been issued by the Town.

(b) Within forty-eight (48) hours after notification of violation of this section, prohibited signs shall be removed.

(ord. of 3-26-1996)

Sec. 4-9-13. Interference with traffic safety prohibited. No

sign shall be erected or continued that:

(1) Obstructs the sight distance along a public right-of-way;

(2) Would tend by its location, color, illumination, or nature, to be confused with or obstruct the view of traffic signs or signals, or to be confused with a flashing light of an emergency vehicle;

(3) Would by its nature tend to confuse motorists or create any potential hazard to motorists; or

(4) Uses admonitions such as - stop," "go," "slow," "danger," etc., which might be confused with traffic directional signals.

(ord. of 3-26-1996)

Sec. 4-9-14. Locations prohibited.

No sign shall be attached to or painted on any telephone pole, light pole, telegraph pole, or any tree, rock, or other natural object. Except in the downtown C-2 zoning district where building walls abut public rights-of-way, no signs other than those signs erected by public governmental agencies or signs required by law, shall be placed on or overhang any portion of public rights-of-way or other public properties. (ord. of 3-26-1996)

Sec. 4-9-15. Illumination.

(a) Illumination devices such as, but not limited to, flood or spot lights shall be so placed and so shielded as to prevent the rays or illumination therefrom being cast into neighboring

dwellings or approaching vehicles. No sign shall have blinking, flashing, or fluctuating lights or other illuminating devices which have a changing light intensity, brightness or color except those depicting only time, temperature or date. No revolving or rotating beam or beacon of light shall be permitted as part of any sign.

(b) The illumination of any sign within one hundred (100) feet of an A, R-1A, R-1B, R-1, R-2A, R-2, or C-1A zone lot line or located within one (1) of these zones shall be diffused or indirect in design so that the intensity or brightness of illumination shall not interfere with the peace, comfort, convenience, and general welfare of residents or occupants of these zones. (ord. of 3-26-1996)

Sec.4-9-16. Misleading and nuisance advertising on signs prohibited.

(a) It shall be unlawful for a person to display false or misleading statements upon signs or other public places calculated to mislead the public as to anything sold, services to be performed, or information disseminated. The fact that any such sign or display shall contain words or language sufficient to mislead a reasonable or prudent person shall be prima facie evidence of a violation of this section by the persons displaying such sign or permitting such sign to be displayed at their residence, establishment, or place of business.

(b) When a business or service using a business sign is discontinued, all signs relating to this business or service shall be removed within ten (10) days from the date of notification by the zoning administrator.

(c) It shall be unlawful for any person to display any advertising material on any sign which is a nuisance as defined in O.C.G.A. § 41-1-1. Any sign which is declared a nuisance by the zoning administrator shall be removed within forty-eight (48) hours from the time of notification to the owner of such sign and upon conviction for failure to comply the owner shall be punished as prescribed in section 1-6.

Sec.4-9-17. Standards for off-site signs.

(a) Off-site signs shall be allowed only in the following zoning districts:

- (1) C-1 (Commercial)
- (2) C-2 (Commercial)
- (3) M (Manufacturing)
- (4) M-1 (Manufacturing)

(b) Off-site sign requirements:

- (1) Area of sign face. Seventy-two (72) square feet per face maximum.
- (2) Maximum number. One (1) off-site sign per supporting structure, which may be single- or double-faced.
- (3) Maximum height. Eighteen (18) feet.
- (4) Minimum ground clearance. Six (6) feet. The zoning administrator shall determine the minimum ground clearance required in consideration of setbacks, motorist visibility, pedestrian

safety and all other pertinent factors.

(5) Minimum setback. No closer than any right-of-way line, and thirty-five (35) feet from the right-of-way line intersection point measured at any angle.

(6) Minimum spacing. Seven hundred fifty (750) feet from any other off-site ground sign or on-site ground sign measured in a straight line from any angle.

(7) Roof locations. There will be no roof-mounted off-site signs.

(c) Off-site signs shall not be established at any location having principal frontage on any street within one hundred (100) feet of any church, school, cemetery, public park, public playground, railroad intersection or residential districts including A, R-1A, R-1B, R-1, R-2, R-2A, C-1A, R-TH and R-CD zones.

(d) Off-site signs shall not interfere with traffic safety, as required by section 4-9-13.

(e) The illumination of any off-site sign shall comply with section 4-9-15.

Sec. 4-9-18. Nonconforming signs.

(a) If one (1) or more of the following conditions occurs, nonconforming signs shall be removed.

(1) The business advertised ceases. If the sign is installed on or overhangs any portion of public rights-of-way, the sign and its foundation shall be removed upon an order from the zoning administrator.

(2) The deterioration of the sign or damage to the sign makes it a hazard.

(3) The sign has been damaged or has deteriorated to such an extent that the cost to repair the sign will exceed fifty (50) percent of the value of the repaired sign. No structural repairs, change in shape, size or design shall be permitted except to make the sign comply with all requirements of this article.

(b) A nonconforming sign shall not be replaced by another nonconforming sign except that the substitution or interchange of poster panels, painted boards, or demountable material on nonconforming signs shall be permitted.

(c) Minor repairs and maintenance of nonconforming signs such as repainting, electrical repairs and neon tubing repairs shall be permitted. However, no structural repairs or changes in the size or shape of a sign shall be permitted except to make the sign comply with the requirements of this article.

(d) New signs related to legally established nonconforming uses of property may be erected provided they comply with the applicable provisions of this article.

(e) Within ninety (90) days of notification of violations, signs must be removed or made to comply.

(f) No conforming sign or advertising device shall be erected for the same establishment on the same lot with an existing nonconforming sign until the nonconforming sign has been removed or made to conform to the provisions of this article.

(g) No new sign shall be erected upon an old foundation which is on a public right-of-way or would cause any part of the sign to overhang a public right-of-way. (ord. of 3-26-1996)

Sec. 4-9-19. Removal of nonconforming signs.

(a) In all use districts, signs which were illegally erected, abandoned, or not maintained with respect to prior ordinances; signs made of paper, cloth, or nondurable materials; and signs located within a public right-of-way shall be removed by the property owner within sixty (60) days after notification of violation of this article. Upon failure to comply with the requirements of this article, the zoning administrator shall cause the removal of such signs at the expense of the property owner.

(b) The zoning administrator shall determine which signs do not meet the requirements of this article, which signs do not require a permit and which signs are prohibited. The decision of the zoning administrator shall be final in such matters; provided, however, that the owner of a sign which has been determined not to meet the requirements of this article, or of a sign for which it has been determined that a permit is necessary, or of a sign which has been determined to be prohibited, may request a reconsideration by the zoning administrator of the determination. The owner may present such evidence as the owner deems appropriate to support the owner's position, and such evidence will be presented at such time, date, and place as designated by the zoning administrator. The decision of the zoning administrator after such reconsideration shall be final. (ord. of 3-26-1996)

Sec. 4-9-20. Standard for on-site ground, marquee, swinging, or projecting wall, and wall signs.

The following table provides information for the installation of on-site ground, marquee, swinging or projecting wall, and wall signs.

GROUND, MARQUEE, SWINGING OR PROJECTING, WALL AND INCIDENTAL USE

Type of Sign	Ground-on-Site	Marquee	Swinging or Projecting Wall	Wall	Top of Wall
Quantity	1*	2*	3*	4*	N/A
Per Location					
Maximum Size In Sq. Ft.	5*	2 sq.ft.	2sq. ft.	4*	N/A
Maximum Height	7*	N/A	Top of Wall	6*	
Minimum Ground Clr	8*	71/2ft.	71/2ft.		
Setback	9 (a),(b)*	N/A	9(a).(b)*		9

*Footnotes:

(1) Ground signs. When a ground sign is used, it shall be considered the primary business sign and only one (1) per location is permitted. If the location is a shopping center, group development project, mall or multiple occupancy building, then only one (1) serial sign shall be used to identify all businesses on the site. All serial signs shall be owned and maintained by the owner of the property upon which the sign is erected. If the location is a through lot, an additional ground sign is permitted provided that the total sign face area of both signs does not exceed that permitted in Footnote 5. If the location is a corner lot, one (1) additional ground sign is permitted but must be erected and advertised on the second street frontage, provided that the total sign face

area of both signs does not exceed that permitted in Footnote 5 and both signs are separated by a distance of at least one hundred (100) feet, measured in a straight line at any angle.

(2) Marquee signs. One (1) per business in addition to or in lieu of a ground sign. If a marquee sign is used, a swinging/projecting wall sign cannot be used unless it is attached to the wall above the marquee. A wall sign may also be used.

(3) Swinging/projecting wall signs. One (1) sign per business in addition to or in lieu of a ground sign. If a swinging/projecting wall sign is used, a marquee sign cannot be used unless the swinging/projecting wall sign is attached to the wall above the marquee. A wall sign may also be used.

(4) Wall signs. One (1) per business building wall in addition to or in lieu of a ground sign. If a wall sign is used, a marquee and/or swinging/projecting wall sign may be used in accordance with Footnote[s] 2 and 3.

(5) One hundred fifty (150) square feet, including reader boards, on all streets where permitted within the Town. On multilane divided highways, one hundred eighty-two (182) square feet, including reader boards, where permitted within the Town. In the R-1 zoning district, twelve (12) square feet. In all other residential zoning districts, forty (40) square feet and the sign shall not exceed eight (8) feet in width.

(6) The total sign face area of a wall sign shall not exceed twenty (20) percent of the total area of the wall on which it is painted or affixed; if in a shopping center, twenty (20) percent of the wall area of each business. The area of the lower slope of a gambrel or mansard roof shall be counted as wall area when the sign is mounted on the lower slope of such roofs.

(7) Twenty-five (25) feet on all streets where permitted within the Town. On multilane divided highways, thirty (30) feet where permitted within the Town. In all residential zoning districts, six (6) feet.

(8) The zoning administrator shall determine the minimum ground clearance required in consideration of setbacks, motorist visibility, pedestrian safety and all other pertinent factors. Unless otherwise required by these regulations or the zoning administrator, the minimum ground clearance shall be six (6) feet, except in residential zoning districts.

(9) Signs may be installed with zero setback from a property line provided:

a. No part of the sign overhangs the property line.

b. No part of the sign is within eight (8) feet of electric power lines.

c. Wall, swinging or projecting wall signs mounted to the wall of buildings in the Downtown C-2 zoning district may overhang the right-of-way (sidewalk) provided all other provisions of swinging or projecting wall signs are met.

(ord. of 3-26-1996)

Sec. 4-9-21. Political signs.

Political signs shall be allowed without permits within any zoning district of the Town subject to the following restrictions:

(1) A political sign or any structure intended solely for the support of a political sign shall not be erected more than sixty (60) days prior to the election which the sign is intended to

influence and shall be removed within ten (10) days after the final election, including any runoffs, which the sign is intended to influence.

(2) No more than one (1) political sign (which may be double-faced) per road frontage per candidate may be placed on any one (1) premises.

(3) All political signs shall be supported by independent means and shall not be attached to any utility pole, to any street sign or any sign directing or controlling traffic nor to any pole or post supporting such signs, nor any trees, shrub or plant.

(4) The following type political signs or devices are prohibited:

- a. Roof signs
- b. Sidewalk, and A-frame signs
- c. Portable signs
- d. Animated signs involving motion, sound or flashing lights
- e. Lighted signs
- f. Trailer signs
- g. Search lights or similar devices

(5) The following type advertising devices intended to attract attention for political purposes are prohibited except when used at political rallies, parades or similar events but in no case shall such devices be displayed for longer than twenty-four (24) hours:

- a. Air- or gas-filled devices
- b. Balloons or streamers
- c. Flags or banners

(6) No political signs shall be permitted on any public right-of-way.

(7) Political signs must be set back a minimum of ten (10) feet from the curb or ditch centerline of any street and in no case shall the view of motorists or pedestrians be obstructed.

(8) No temporary political sign may exceed sixteen (16) square feet in area nor shall signs exceed ten (10) feet in height. Minimum clearance between the bottom of the sign and the ground shall be six (6) feet, yard signs excepted.

(9) Yard signs:

- a. Yard signs are defined as signs not exceeding six (6) square feet in area.
- b. A permit is not required for yard signs.
- c. No more than one (1) yard sign (which may be double faced) per road frontage per candidate may be placed on any one (1) premises.

d. Yard signs must be set back a minimum of ten (10) feet from any street, and in no case shall the view of motorists or pedestrians be obstructed.

(10) The Town is empowered to remove or cause to be removed all political signs not conforming with the provisions of this article without notice to the candidate whose sign creates the nonconformance.

(11) Any political sign not moved ten (10) days after the election or runoff for which such sign was placed may be removed by the Town, and the Town shall charge the candidate or elected official the cost of removal of such sign.

(ord. of 3-26-1996)

Sec.4-9-22. Maintenance and appearance of signs.

(a) All signs shall be maintained in good condition as to present a neat and orderly appearance. The zoning administrator may cause to be removed after due notice any sign which shows gross neglect or becomes dilapidated, or if the ground area around it is not well maintained.

(b) The zoning administrator will give the owner ten (10) days' written notice to correct the deficiencies or to remove the sign. If the owner refuses to correct the deficiencies or remove the sign, the zoning administrator will have the sign removed at the expense of owner.

(ord. of 3-26-1996)

Sec. 4-9-23. Labels required on signs.

(a) With each permit, the zoning administrator may issue a label bearing the same number as the permit with which it is issued. It shall be the duty of the permittee to affix such label to the sign in the lower right hand area so it will be easily seen. The absence of a proper label shall be prima facie evidence that the sign has been or is being erected or operated in violation of the provisions of this article. Labels may be color coded.

(b) The zoning administrator may inspect all existing signs and advertising devices in the Town to determine if such signs or devices conform to the provisions of this article. Identification labels may be affixed to all signs which would have required a permit in order to identify existing conforming and nonconforming signs and to indicate the date of inspection.

(ord. of 3-26-1996)

Sec. 4-9-24. Variances.

No variances shall be allowed from any time or dimensional requirement, to include, but not be limited to, maximum height, maximum size in square feet, minimum ground clearance, or any distance or setback requirement, set forth in this article, any table thereto and any addition thereto, except that as to any dimensional requirement the zoning administrator may allow a variance of up to five (5) percent of any one (1) dimensional requirement only. There shall be no appeal from the decision of the zoning administrator in this regard. (ord. of 3-26-1996)

Sec. 4-9-25. Termination or revocation of permit.

Violation of any provision of this article will be grounds for terminating the permit granted by the Town to the permittee erecting the sign. No permit shall be terminated, revoked or cancelled except for due cause as defined in this section, and the owner is granted a public hearing before the zoning board of adjustments and appeals. The owner will be given ten (10) days written notice of the time, place, and purpose of the hearing, with a statement of the reason for the termination, revocation or canceling of such permit. "Due cause" is the willful or continued violation or both of the provisions of this article. The termination of the permit does not in any way preclude the Town from taking any other action authorized by this Code, and any action authorized by law. (ord. of 3-26-1996)

Sec. 4-9-26. Remedies.

In case any sign, advertising device, or other device covered by this article is proposed to be erected, constructed, altered, converted, or used in violation of any provision of this article, the zoning administrator shall, in addition to other remedies, and after due notice to the appropriate person, issue a citation for violation of this article requiring the presence of the violator in the municipal court, institute injunction or other appropriate action or proceeding to prevent such unlawful erection, construction, alteration, conversion or use, or to correct or abate such violation. (ord. of 3-26-1996)

4-10 CERTIFICATE OF OCCUPANCY

Sec. 4-10-1. Required.

A certificate of occupancy issued by the zoning administrator is required in advance of occupancy or use of:

- (1) Commercial, public assembly, and industrial building; and
- (2) Any building or premises where a change in the type of occupancy or use will occur.
- (3) Any residence that is used for residential purposes for the first time.

(ord. of 3-26-1996)

Sec. 4-10-2. Issuance.

Upon payment of any required fees, the zoning administrator shall sign and issue a certificate of occupancy if the proposed use of land or building as stated on the certificate of occupancy is signed thereto by the owner or his appointed agent and is found to conform to the applicable provisions of this chapter, and if the building, as finally constructed, complies with the sketch or plan submitted and approved for the building permit, and provided that there accompanies the request for a certificate a written sworn statement from the builder, plumber and electrician that states as follows;

We, the undersigned, attest under oath that the building(s) located at _____ were constructed in compliance with all state and local building codes.

General Builder

State Licensed Electrician
License No.
State Licensed Plumber
License No.

One (1) copy of all certificates of occupancy issued which contain a statement of the intended use of the applicable property, floor loads, and other pertinent information, signed by the owner or his agent, shall be kept on file in the office of the zoning administrator. (ord. of 3-26-1996)

Sec. 4-10-3. Denial.

A certificate of occupancy shall not be issued unless the proposed use of a building or land conforms to the applicable provisions of this chapter, and the structure conforms with the applicable provisions of the building code and complies with the sketches or plans submitted for obtaining the building permit. (ord. of 3-26-1996)

4-11 TALKING ROCK BOARD OF ZONING APPEALS

Sec. 4-11-1. Created.

There is hereby reestablished, under the power vested in the Town by virtue of the terms and provisions of the General Planning and Zoning Enabling Act of 1957, the Talking Rock Board of Zoning Appeals, referred to throughout this article as the board, to be governed by the following provisions. (ord. of 3-26-1996)

Sec. 4-11-2. Membership and appointments.

The Talking Rock Board of Zoning Appeals shall consist of five (5) members appointed by the Town council. Board members shall be removed for cause, upon written charges, and after public hearing. Any member of the board shall be disqualified to act upon a matter before the board with respect to property in which the member has an interest. (ord. of 3-26-1996)

Sec. 4-11-3. Term of office.

The term of office for each member of the board shall be for three (3) years. However, in the appointment of the first board, two (2) members shall be appointed for three (3) years and two (2) for two (2) years and one (1) for one (1) year. Any vacancy in the membership shall be filled for the unexpired term in the same manner as the initial appointment. If one (1) appointee be from the planning and zoning commission and he ceases to be a member of such planning and zoning commission during the term of his appointment to the board, his membership on the board shall terminate and the governing authority may name a member of such planning and zoning commission to fill the unexpired term of its original appointee. (ord. of 3-26-1996)

Sec. 4-11-4. Rules and procedures.

The board shall elect one (1) of its members as chairman, who shall serve for one (1) year or until he is reelected or his successor is elected. The board of appeals shall appoint a secretary who may be an officer of the Town, or of the planning and zoning commission. The board shall have authority to adopt rules of procedure. Meetings of the board shall be held at the call of the chairman, or in his absence the acting chairman. The chairman, or the acting chairman, may

administer oaths and compel the attendance of witnesses by subpoena. The board shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of such board and shall be a public record. The decisions of the board shall be by resolution, which resolution shall contain a statement of the grounds of its decision or action. The full text of the resolution shall be sent to the appellant. No appeal requesting the same relief in regard to the same property shall be received or heard by the board for a period of twelve (12) months following the date of such resolution, except that this limitation shall not affect the right of such board to grant a rehearing as provided in the rules of procedure adopted by the board. (ord. of 3-26-1996)

Sec. 4-11-5. Administrative assistance.

The zoning administrator shall provide such technical, administrative, and clerical assistance and office space as is required by the board to carry out its function under the provisions of this article. (ord. of 3-26-1996)

Sec.4-11-6. Who may appeal.

Appeals to the board may be taken by any person aggrieved or by any officer, department, board, or bureau of the governing authority affected by any decision of the zoning administrator. Such appeals shall be filed no later than thirty (30) days after the date of notification of the decision appealed from by filing with the zoning administrator and with the board a notice of appeal specifying the grounds of the appeal. The zoning administrator shall forthwith transmit to the board all the papers constituting the record upon which the action appealed from was taken. (ord. of 3-26-1996)

Sec. 4-11-7. Legal proceedings stayed.

An appeal stays all legal proceedings in furtherance of the action appealed from, unless the zoning administrator certifies to the board after the notice of appeal shall have been filed with him that by reason of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life and property. In such a case, proceedings shall not be stayed otherwise than by restraining order which may be granted by the board or by a court of record on application, on notice to the zoning administrator, and on due cause shown. (ord. of 3-26-1996)

Sec. 4-11-8. Presentation of evidence.

The appellant and any public agency or private individual shall be entitled to present evidence on matters before the board, and the board may request technical service, advice, data or factual evidence from the planning commission and the Town council for assistance in reaching decisions. (ord. of 3-26-1996)

Sec. 4-11-9. Extent of board of appeals' power.

The board may, in conformity with the provisions of this article, reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination of the zoning administrator, and to that end shall have all the powers of the zoning administrator. The board may direct the issuance of a permit. It shall be the duty of the zoning administrator to carry out the decisions of the board. (ord. of 3-26-1996)

Sec. 4-11-10. Notice of hearing.

Before making its decision on any matter within the board's purview, the board shall hold a public hearing thereon. At least fifteen (15) days notice of the time and place of such hearing shall be sent to the appellant or petitioner by U.S. mail at his last known address and to the owners of all properties either adjoining the property with which the hearing is concerned or situated directly across a public right-of-way from such property. Such notice shall contain the name of the appellant or petitioner, the date, time, and place set for the hearing, and a brief statement of the nature of the hearing. (ord. of 3-26-1996)

Sec. 4-11-11. Newspaper notice; appearances; time limit.

(a) The board shall give public notice of the hearing in the newspaper used as the official legal organ of the Town, published for two (2) consecutive issues at least fifteen (15) days prior to the date of the public hearing.

(b) Any party may appear at the public hearing in person or by agent or attorney.

(c) The board shall reach a decision following a public hearing within thirty (30) days.

(ord. of 3-26-1996)

Sec. 4-11-12. Appeals from decisions of the zoning administrator.

The board shall hear and decide upon appeals where it is alleged there is error in any order, requirement, decision, or determination made by the zoning administrator in the enforcement of this article. (ord. of 3-26-1996)

Sec. 4-11-13. Request for a variance.

(a) The board may authorize upon appeal in specific cases such variance from the terms of this article as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of these regulations will, in an individual case, result in practical difficulty or unnecessary hardship, so that the spirit of these regulations shall be observed, public safety and welfare secured, and substantial justice done; provided, however, that a variance shall not be granted for a use of land or building or structure that is prohibited by this article in the district in question. Such variance may be granted in an individual case upon a finding by the board that the following exists:

(1) There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape, or topography; and,

(2) The application of this article to this particular piece of property would create a practical difficulty or unnecessary hardship; and,

(3) Such conditions are peculiar to the particular piece of property involved; and,

(4) Relief, if granted, would not cause substantial detriment to the public good or impair the purposes and intent of these regulations, provided, however, that no variance may be granted for a use of land or building or structure that is prohibited by this article; and,

(5) A literal interpretation of this article would deprive the applicant of any rights that others in the same district are allowed; and,

(b) Provided that the board of appeals may impose or require such additional restrictions and standards as may be necessary to protect the health and safety of workers and residents in the community, and to protect the value and use of property in the general neighborhood.

(c) Wherever the board of appeals shall find, in the case of any permit granted pursuant to the provisions of this article, that any of the terms, conditions, or restrictions upon which such permit was granted are not being complied with, the board shall rescind and revoke such permit after giving due notice to all parties concerned and granting full opportunity for a public hearing.

(ord. of 3-26-1996)

Sec. 4-11-14. Forms for appeal; fee.

Appeals shall be made on forms provided by the zoning administrator, and all information required on such forms shall be provided by the appellant. Forms shall be filed with the board, and the appellant shall pay the board for expenses incidental to the appeal. No form shall be accepted by the board unless it contains all pertinent information and is accompanied by a twenty-five dollar (\$25.00) fee, payable to the Town, to defray expenses.
(ord. of 3-26-1996)

CHAPTER 5 SUBDIVISIONS

5-1 IN GENERAL

Sec. 5-1-1. Short title.

This chapter shall be known and may be cited as the "Land Subdivision Ordinance of the Town of Talking Rock." (ord. of 3-26-1996)

Sec. 5-2-2. Purpose and intent.

This chapter is enacted pursuant to the authority contained in the Town Charter and for the following purposes:

- (1) To encourage economically sound and stable land development;
- (2) To assure the provision of required streets, utilities, and other facilities of land developments;
- (3) To assure the adequate provision of safe and convenient traffic access and circulation, both vehicular and pedestrian, in land developments;

(4) To assure the provision of needed public open spaces and building sites in land developments through the dedication or reservation of land for recreational, education and other public purposes; and

(5) To assure that land is developed in conformity with the master plan of the Town.

(ord. of 3-26-1996)

Sec. 5-1-3. Ordinances requiring highest standard to govern.

Whenever the provisions of this chapter and those of some other ordinance or statute apply to the same subject matter, that ordinance requiring the highest, or more strict, standard shall govern. (ord. of 3-26-1996)

Sec. 5-1-4. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Lot means a portion or parcel of land separated from other portions or parcels by description as on a subdivision plat or record of survey map or as described by metes and bounds, and intended for transfer of ownership or for building development. For the purpose of this chapter, the term does not include any portion of a dedicated right-of-way. A lot must have a minimum width and square footage as specified in the zoning ordinance. All legal lots must front on a public street.

Planning commission means the Talking Rock Town Council.

Street means a way for vehicular traffic, whether designated as an avenue, boulevard, road, highway, expressway, lane, alley, or other way, and for the purposes of this chapter "street" is divided into the following categories.

(1) Major streets means those streets designated on the street and traffic plan of the Town as regional thoroughfares, major thoroughfares, secondary thoroughfares and collector streets.

(2) Collector street means a street within a subdivision used to carry traffic from the minor streets to the major streets and includes the principal entrance and circulation streets of a subdivision, and those streets designated as collector streets on the street and traffic plan of the Town.

(3) Minor street means a street used primarily for access to the abutting properties.

(4) Alley means a minor way used for service access to the back or side of properties otherwise abutting on a street.

(5) Cul-de-sac means a minor street with only one (1) outlet, sometimes called

a

dead-end street.

(6) Marginal access street means a minor street parallel and adjacent to major streets and which provides access to abutting properties with protection from through traffic.

Subdivider means the person having such a proprietary interest in the land to be subdivided as will authorize the maintenance of proceedings to subdivide such land under this chapter, or the authorized agent of such person for the purpose of proceeding under this chapter.

Subdivision means all divisions of a tract or parcel of land into two (2) or more lots, building sites, or other divisions for the purpose, whether immediate or future, of sale, legacy, or building development, and includes resubdivision and, where appropriate to the context, relates to the process of subdividing or to the land or area subdivided; provided, however, that the following are not included within this definition:

(1) The combination or recombination of portions of previously platted lots where the total number of lots is not increased and the resultant lots are equal to the standards of the municipality;

(2) The division of land into parcels of five (5) acres or more where no new street is involved;

(3) The division of land into parcels where no new street is involved and the resultant lots are equal to the standard of the municipality or county in which the division of land is being made, provided sufficient land has been deeded to the Town to provide an adequate right-of-way on the existing street involved according to the standards of the Town's street and traffic plan.

5-2 PLATS

Sec. 5-2-1. Platting authority.

From and after the passage of the ordinance from which this chapter derives, the Town council shall be the official platting authority, and no plat of a land subdivision shall be entitled to record in the office of the clerk of the superior court of the county unless it shall have the approval of the planning commission and the Town council inscribed thereon. The filing or recording of a plat of a subdivision without the Town's approval as set forth by this chapter shall be punishable as other offenses against the Town under the terms of section _____. Further, any violation of the provisions of this chapter are hereby declared to be a misdemeanor and punishable upon conviction therefor, all as provided by the laws of this state. (ord. of 3-26-1996) O.C.G.A. § 15-6-67.

Sec. 5-2-2. Recording and approval required.

The transfer of, sale of, agreement to sell, or negotiation to sell land by reference to or exhibition of, or other use of a plat of a subdivision that has not been given final approval by the Town council and recorded in the office of the clerk of the superior court of the county is prohibited, and the description by metes and bounds in the instrument of transfer or other document shall not exempt the transaction from such penalties. (ord. of 3-26-1996)

Sec. 5-2-3. Opening and improving public streets.

The Town council shall not accept, lay out, open, improve, grade, pave or light any street or lay any utility lines in any street which has not attained the status of a public street prior to the effective date of the ordinance from which this chapter derives, unless such street corresponds to the street location shown on an approved subdivision plat or on an official street map, provided that the Town council may accept, lay out, open and improve any street not so platted if it first submits such proposed action to the planning commission for its review and comment. (ord. of 3-26-1996)

Sec. 5-2-4. Compliance with regulations required.

(a) No new street or alley shall be accepted by the Town for the upkeep and maintenance or for the installation of public utilities thereon or therein until and unless the following regulations are complied with and the opening of any such streets or alleys without the compliance with such regulations is hereby prohibited.

(b) No subdivision, or building area plan shall be approved by the Town council, until the subdivision or building area plan as shown on a plat has been approved by the planning board.

(c) Before approval and acceptance of a plat of a subdivision or building area, the following shall be done:

(1) The plat submitted shall be prepared by and bear the seal of a registered engineer or land surveyor. The plat shall show the layout of streets, lots and drainage and shall be accompanied by profiles showing finished grades and drainage of streets.

(2) All lots shall comply with zoning of area in which subdivision, or building area, is located.

(3) Street right-of-way shall be sixty-foot minimum width, consistent with the provisions of section 5-5-8 and section 5-5-9 of this chapter.

(4) Grading of streets shall be done by the developer. Roadway shall be graded to a minimum width of thirty-two (32) feet. Shoulders, parkways and sidewalk areas shall be graded in accordance with street grades. All dead-end streets shall have a turn-around sufficiently large to accommodate fire apparatus and shall extend to a boundary of the subdivision.

(5) Where proposed subdivisions or building areas adjoin existing subdivisions or building areas, the street system of the proposed subdivision or building area shall be laid out to join the existing street system.

(6) Adequate storm drainage pipes and catch basins shall be installed by the developer in accordance with standards of the Town and as approved by the Town engineer. The Town council shall also require that sanitary sewers be installed prior to the acceptance of any new streets or roadways in accordance with standards adopted and prescribed by the Town engineer. All the costs of such installations are to be borne by the developer. However, the Town council reserves the right to waive this requirement when, in its sole discretion, the costs of such construction are prohibitive to the developer. The Town council shall also have the authority to formulate such methods of assisting developers in financing such new sewers as shall be required, from time to time, in order to

serve the best interest of orderly land development in the Town.

(7) All block and lot corners and all changes in alignment shall be adequately monumented and marked with permanent markers and monuments.

(8) After approval by the planning board of the plan submitted by the developer and completion of requirements of subsections (4), (6) and (7), the developer shall then submit to the Town deeds to the streets proposed to be accepted by the Town and four (4) copies of the approved plat as recorded. (ord. of 3-26-1996)

Sec. 5-2-5. Erection of buildings.

No building permit shall be issued and no building shall be erected on any lot in the Town unless the street giving access thereto has been accepted as a public street in accordance with this chapter, or unless such street had attained the status of a public street prior to the effective date of the ordinance from which this chapter derives, or unless the lot is on a street accepted by the Town council. (ord. of 3-26-1996)

Sec. 5-2-6. Preapplication review.

Whenever the subdivision of a tract of land within the Town is proposed, the subdivider may submit to the Mayor sketch plans and data showing existing conditions within the site and in its vicinity and the proposed layout and development of the subdivision, including proposed restrictions if any. A fee of \$500.00 is due upon the submission of the plans. (ord. of 3-26-1996)

Sec. 5-2-7. Application for preliminary plat approval.

Following the preapplication review of a proposed subdivision plat, the subdivider shall submit to the Mayor, at least twenty (20) days prior to the next regular meeting of the Town Council, the following:

(1) A letter requesting review and approval of a preliminary plat and giving the name and address of a person to whom the notice of the hearing by the planning commission shall be sent.

(2) Five (5) copies of the preliminary plat and other documents, as specified in sections 5-2-9 through 5-2-13.

(ord. of 3-26-1996)

Sec. 5-2-8. Review of preliminary plat.

(a) The Mayor shall check the plat for conformance to the rules and regulations of this chapter and report his findings and recommendations to the planning commission, which shall afford a hearing on the preliminary plat, notice of the time and place of which shall be sent by the Mayor by registered or certified mail to the person designated in the letter requesting preliminary plat review and approval, not less than five (5) days prior to the date of the hearing. Thereafter, the planning commission shall give tentative approval or disapproval to the preliminary plat. A notation of the action shall be made on two (2) copies of the preliminary plat, including a statement of the reasons for disapproval if the

preliminary plat is disapproved. One (1) copy shall be returned to the subdivider or his agent and one (1) copy added to the records of the planning commission.

(b) Tentative approval of a preliminary plat does not constitute approval of a final plat. It indicates only approval of the layout as a guide to the preparation of the final plat. Tentative approval shall expire and be null and void after a period of thirty-six (36) months, unless an extension of time is approved by the planning commission. If action on a preliminary plat is not taken by the planning commission within thirty (30) days of the date of submittal, the preliminary plat shall be considered approved and a certificate of approval shall be issued on demand. However, the applicant for approval may waive this requirement and consent to an extension of time.

(ord. of 3-26-1996)

Sec.5-2-9. Scale.

The preliminary plat shall be clearly and legibly drawn at a scale not smaller than two hundred (200) feet to one (1) inch. (ord. of 3-26-1996), O.C.G.A. § 15-6-67

Sec. 5-2-10. Sheet size.

If the complete plat cannot be shown on one (1) sheet, it may be shown on more than one (1) sheet with an index map on a separate sheet of the same size. (ord. of 3-26-1996), O.C.G.A. § 15-6-67

Sec. 5-2-11. Ground elevations.

The preliminary plat shall show ground elevations, based on the datum plane of the U.S. Coast and Geodetic Survey (or a datum plane approved by the Town engineer):

(1) For land that slopes less than approximately two (2) percent, show spot elevations at all breaks in grade, along all drainage channels or swales, and at selected points as necessary to show drainage.

(2) For land slopes more than approximately two (2) percent, show contours with an interval of not more than five (5) feet.

(ord. of 3-26-1996)

Sec. 5-2-12. Information to be provided on preliminary plat.

The preliminary plat shall contain the following information:

- (1) Name and address of owner of record and of subdivider;
- (2) Proposed name of subdivision and its acreage;
- (3) North point and graphic scale and date;
- (4) Exact boundary lines of the tract by bearings and distances;

- (5) Names of owners of record of adjoining land;
 - (6) Proposed layout including existing and proposed streets with 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 single-family dwellings;
 - (7) Block numbers and lot numbers;
 - (8) Provisions for the required improvements including drainage and a copy of the design calculations of each in preliminary form;
 - (9) Minimum building front yard setback lines;
 - (10) Such street cross-sections and profiles as may be required by the Town engineer. The minimum requirement shall always be a profile of existing center line and proposed profile of proposed street; and
 - (11) Location with respect to a coordinate system when required by state law.
- (ord. of 3-26-1996)

Sec. 5-2-13. Certificate of tentative approval.

A certificate of tentative approval of the preliminary plat by the planning commission shall be inscribed on the plat as follows:

^v Pursuant to the Land Subdivision Regulations of the Town of Talking Rock, Georgia, all the requirements of Tentative Approval having been fulfilled, this Preliminary Plat was given Tentative Approval by the Town Council for Talking Rock on _____ .
19 ^ .

"This Tentative Approval does not constitute approval of a Final Plat. This Certificate of Tentative Approval shall expire and be null and void on _____."

Mayor, Talking Rock

Date: _____

(ord. of 3-26-1996)

Sec. 5-2-14. Application for final plat approval.

After the preliminary plat of a proposed land subdivision has been given tentative approval by the planning commission, the subdivider may, within thirty-six (36) months from tentative approval, submit to the planning commission, at least twenty (20) days prior to its next regular meeting:

(1) A letter requesting review and approval of a final plat and giving the name and address of the person to whom the notice of the hearing by the planning commission on the final plat shall be sent;

(2) Five (5) copies of the final plat and other documents, as specified in other articles of this chapter, the original and at least one (1) copy of which shall be a permanent transparency;

(3) Prior to the hearing for final plat, a subdivision processing fee shall be paid by the developer at the rate of five dollars (\$5.00) per lot with a minimum fee of fifty dollars (\$50.00).

(ord. of 3-26-1996)

Sec. 5-2-15. Review of final plat.

(a) The Mayor shall check the final plat for conformance with the tentatively approved preliminary plat and with the rules and regulations of this chapter and report his findings and recommendations to the planning commission, which shall afford a hearing on the final plat, notice of the time and place of which shall be sent by the Mayor by registered or certified mail to the person designated in the letter requesting final plat review and approval, not less than five (5) days prior to the date of the hearing.

(b) Thereafter, the planning commission shall tentatively approve or disapprove the final plat and forward such plat to the Town council for its final approval. A notation of the action by the planning commission shall be made on two (2) prints of the final plat, including a statement of the reasons therefor if the final plat is disapproved. If action on a final plat is not taken by the Town Council within ninety (90) days of the date of the submittal, the final plat shall be considered approved by the planning commission and the plat shall be forwarded to the Town council for action. However, the applicant for approval may waive this requirement and consent to an extension of time.

(ord. of 3-26-1996)

Sec. 5-2-16. Recording of final plat.

(a) Upon approval of a final plat, the developer shall have the final plat recorded in the office of the clerk of the superior court of the county. The subdivider shall be responsible for the payment of the recording fee at the time of submitting the final plat as provided in the preceding section.

(c) Upon recording of the approved final plat, the original tracing or a permanent reproducible of the final plat with all certificates endorsed thereon shall be provided by the subdivider for the records of the Town.

(ord. of 3-26-1996) O.C.G.A. § 15-6-67

Sec. 5-2-17. Specifications required in addition to those on preliminary plat.

(1) The final plat shall conform to and meet the specifications of O.C.G.A. 15-6-67:

a. ""Owner's Certification: State of Georgia, County of Pickens

""The owner of the land shown on this plat and whose name is subscribed hereto, in person or through a duly authorized agent, certifies that all state, Town and county taxes or other assessments now due on this land have been paid.

"Agent ____

Date ____

Owner.

Date

b. Certificate of dedication. A certification by the owner setting forth the description of the areas and improvements he dedicates to the public and the extent of the title which he is dedicating should be attached to the final plat.

c. A certificate of approval of the final plat by the Town council, shall be placed directly on the plat as follows:

d. ""Pursuant to the Land Subdivision Ordinance of the Town of Talking Rock, Georgia, all the requirements of approval having been fulfilled, this Final Plat was given Final Approval by:

""The Talking Rock Town Council on _____ day of _____,
19_____.

Mayor

Date:

(ord. of 3-26-1996), O.C.G.A. § 15-6-67

5-3 ALTERNATE METHOD OF APPROVAL FOR SUBDIVISIONS ON EXISTING STREETS

Sec. 5-3-1. Purpose of this article.

This article provides for an alternate method of approval for the division of large lots less than one (1) block in size into smaller parcels that are on streets that exist as usable public streets at the date of this chapter. (ord. of 3-26-1996)

Sec. 5-3-2. Application for plat approval.

Any person having a lot as described above which can be divided and meet the zoning requirements may use this method for approval. After he has the following enumerated information in hand, he shall submit to the Mayor at least seven (7) days prior to the next regular meeting of the planning commission the following:

(1) Five (5) copies of the plat of survey (prepared by a registered land surveyor) of the property showing the proposed divisions and any existing buildings and their locations.

(2) A letter requesting the approval of the plat as a final plat and giving the name and address of a person to whom the notice of the hearing by the planning commission shall be sent.

(3) A final plat filing fee shall be paid by the developer at the rate of \$500.00 plus five dollars (\$5.00) per lot with a maximum fee of fifty dollars (\$50.00).

(4) A plat showing all the other pertinent information that is required on other final plats as required in section 5-2-17.

(ord. of 3-26-1996)

Sec. 5-3-3. Review of plat.

(a) The Mayor shall check the plat for conformance to the rules and regulations of the planning commission, which shall afford a hearing on the plat, notice of the time and place of which shall be sent by the Town engineer by registered or certified mail to the person designated in the letter requesting plat review and approval, not less than five (5) days prior to the date of the hearing.

(b) Thereafter, the Town Council shall give final approval or disapproval of the plat. A notation of the action shall be made on two (2) prints of the plat, including a statement of the reasons therefor if the plat is disapproved. If action on the plat is not taken by the Town Council within ninety (90) days of the date of the submittal, the plat shall be considered approved and a certificate of approval shall be issued on demand. However, the applicant for approval may waive this requirement and consent to an extension of time.

(ord. of 3-26-1996)

Sec. 5-3-4. Recording of the plat.

(a) The subdivider shall be responsible for the recording and the payment of the

recording fee at the time of submitting the plat as provided in the preceding section.

(b) Upon recording of the approved plat, the original tracing or a permanent reproducible of the plat with all certificates endorsed thereon shall be provided by the subdivider for the records of the Town council. No subdivider shall be entitled to record an approved plat unless and until it shall have inscribed thereon: a certificate of approval of the final plat by the planning commission and the Town council, which shall be placed directly on the plat as follows:

"Pursuant to the Land Subdivision Ordinance of the Town of Talking Rock, Georgia, all the requirements of approval having been fulfilled, this Final Plat was given Final Approval by:

"The Talking Rock Town Council this _____ day of _____ ,
19_____ .

Mayor

Date:

(ord. of 3-26-1996)

Sec. 5-2-20. Street improvements.

No street improvements shall be required for property subdivided under this article.

(ord. of 3-26-1996)

5-4 GENERAL DESIGN REQUIREMENTS

Sec. 5-4-1. Suitability of land.

Land subject to flooding, improper drainage, or erosion or that is for topographical or other reasons unsuitable for residential use shall not be platted for residential use nor for any other use that will continue or increase the danger to health, safety, or property destruction, unless the hazards can be and are corrected. All lots are to be platted in such a manner that each lot will be suitable for building by including any unsuitable land in a lot with suitable land adjoining or by correcting the problem that makes the land unsuitable.

(ord. of 3-26-1996)

Sec. 5-4-2. Name.

The name of the subdivision must have the approval of the planning commission. The name shall not duplicate nor closely approximate the name of an existing subdivision. (ord. of 3-26-1996)

Sec. 5-4-3. Access.

Access to every subdivision shall be provided over a public street.

(ord. of 3-26-1996)

Sec. 5-4-4. Large-scale developments.

The requirements of this chapter may be modified in the case of a large-scale community or neighborhood unit, such as a housing project or shopping center which is not subdivided into customary lots, blocks, and streets, if the development is approved by the Town Council and if it is in conformity with the purpose and intent of this chapter. (ord. of 3-26-1996)

Sec. 5-4-5. Conformance with street and traffic plan.

(a) All streets and other features of the street and traffic plan of the Town shall be platted by the subdivision in the location and to the dimension indicated on the major street plan adopted by the planning commission. When features of other plans adopted by the planning commission (such as schools or other public building sites, parks or other land for public uses) are located in whole or in part in a land subdivision, such features shall be either dedicated or reserved by the subdivider for acquisition within a reasonable time by the appropriate public agency.

(b) Whenever a plat proposes the dedication of land to public use that the planning commission finds not required or suitable for such public use, the planning commission shall refuse to approve the plat and shall notify the Town council of the reasons for such action.

(ord. of 3-26-1996)

Sec. 5-4-6. Street layouts to comply with planning standards.

All street layouts are to be according to recognized planning standards to provide for connection of adjoining areas, traffic circulation, utility connections and to facilitate normal municipal functions such as garbage pickup. (ord. of 3-26-1996)

5-5 GENERAL REQUIREMENTS FOR STREETS AND OTHER RIGHTS-OF-WAY

Sec. 5-5-1. Continuation of existing streets.

Existing streets shall be continued at the same or greater width, but in no case less than the required width. (ord. of 3-26-1996)

Sec. 5-5-2. Street names.

Street names shall require the approval of the planning commission. Streets that are obviously in alignment with streets already existing and named shall be given the name of the existing street. Names of new streets shall not duplicate or closely approximate those of existing streets. (ord. of 3-26-1996)

Sec.5-5-3. Street jogs.

Street jogs with centerline offsets of less than one hundred twenty-five (125) feet shall not be permitted. (ord. of 3-26-1996)

Sec. 5-5-4. Cul-de-sacs.

Except where topographic or other conditions make a greater length impracticable, cul-de-sacs, or dead-end streets, shall not be greater in length than eight hundred (800) feet. They shall be provided at the closed end with a turnaround having a property line radius of at least fifty (50) feet with an outside pavement radius of at least forty (40) feet. (See Illustration 4 on file in Town, Ordinance Book 5, page 32.) (ord. of 3-26-1996)

Sec. 5-5-5. Alleys.

Alleys may be required at the rear of all lots used for multifamily, commercial, or industrial developments but shall not be provided in one-family and two-family residential developments unless the subdivider provides evidence satisfactory to the planning commission of the need for alleys. (ord. of 3-26-1996)

Sec. 5-5-6. Reserve strips.

Reserve strips controlling access to streets, alleys, and public grounds shall not be permitted unless their control is placed in the hands of the Town council, under conditions approved by the Town council. (ord. of 3-26-1996)

Sec.5-5-7. Easements.

Easements having a minimum width of fifteen (15) feet and located along the side or rear lot lines shall be provided as required for utility lines, and underground mains and cables, and pipe for drainage from street to watercourse along lot lines, and for sanitary sewer lines as required according to the terms and conditions of subsection (6) of section 17-188. (ord. of 3-26-1996)

Sec. 5-5-8. Street right-of-way widths.

The right-of-way width shall be the distance across a street at right angles from property line to property line. Minimum street right-of-way widths shall be as follows:

- (1) Regional thoroughfares, eighty-six (86) feet; major thoroughfares, eighty (80) feet; secondary thoroughfares, seventy (70) feet; and collector streets, sixty (60) feet.

(2) Minor streets and dead-end streets, sixty (60) feet with curb and gutter, and seventy (70) feet without curb and gutter.

(3) Alleys, twenty (20) feet, where allowed.

(ord. of 3-26-1996)

Sec.5-5-9. Street pavement widths.

Street pavement widths shall be as follows:

(1) Regional thoroughfares, sixty (60) feet; major thoroughfares, sixty (60) feet; secondary thoroughfares, forty-five (45) feet; and collector streets, twenty-five (25) feet. This is not intended to prevent the Town through its Town council from using stage development to accomplish the final conformance with these standards;

(2) Minor streets, eighteen (18) feet if curbs are to be used; twenty-four (24) feet without curb and gutter;

(3) Cul-de-sac or dead-end streets, eighteen (18) feet if curbs are to be used; twenty-four (24) feet without curb and gutter; and

(4) Alleys, sixteen (16) feet.

Sec. 5-5-10. Street grades.

Maximum street and ditch grades shall be as follows:

(1) Regional thoroughfares, major thoroughfares, secondary thoroughfares as shown on the street and traffic plan of the Town, not in excess of fourteen (14) percent;

(2) Collector streets, not in excess of twenty (20) percent;

(3) Minor streets and dead-end streets and alleys, not in excess of twenty (20) percent;

(4) No street grade shall be less than one-half of one (1) percent.

(ord. of 3-26-1996)

Sec. 5-5-11. Street intersections.

Street intersections shall be as nearly at right angles as possible. No street intersections shall be at an angle of less than sixty (60) degrees unless required by unusual circumstances. (ord. of 3-26-1996)

Sec. 5-5-12. Curblines radius.

The curblines radius at street intersections shall be at least fifteen (15) feet. Where the angle of street intersection is less than ninety (90) degrees, a longer radius may be required. (ord. of 3-26-1996)

5-6 DESIGN STANDARDS FOR BLOCKS AND LOTS

Sec. 5-6-1. Block lengths and widths.

Block lengths and widths shall be as follows:

(1) Block lengths shall be not greater than one thousand eight hundred (1,800) feet nor less than six hundred (600) feet, except in unusual circumstances.

(2) Blocks shall be wide enough to provide two (2) tiers of lots of minimum depth, except where abutting upon major streets, limited-access highways, or railroads or where other situations make this requirement impracticable.

(ord. of 3-26-1996)

Sec. 5-6-2. Lot sizes.

(a) Residential lots shall meet the lot width and lot area requirements of the zoning chapter.

(b) Where individual septic tanks are used, the chief building official shall prescribe minimum lot sizes to conform to health standards; provided, however, that lots shall never be less than the minimum size prescribed by the zoning chapter. Commercial and industrial lots shall be adequate to provide service areas and off-street parking suitable to use intended.

(c) Residential corner lots shall have adequate width to meet building setback requirements from both abutting streets.

(ord. of 3-26-1996)

Sec. 5-5-3. Lot lines.

All lot lines shall be perpendicular or radial to street lines, unless not practicable because of topographic or other features. (ord. of 3-26-1996)

Sec. 5-5-4. Building lines.

A building line meeting the front-yard setback requirements of the zoning ordinance shall be established on all lots. (ord. of 3-26-1996)

Sec. 5-5-5. Lots abutting public streets.

Each lot shall abut upon a dedicated public street. (ord. of 3-26-1996)

Sec. 5-6-6. Double and reverse frontage lots.

Double frontage and reverse frontage lots shall be avoided except where essential to provide separation of residential development from traffic arteries or to overcome specific disadvantages of topography and orientation. A planting screen easement of at least ten (10) feet, and across which there shall be no right of access, shall be provided along the

line of lots abutting such a traffic artery or other disadvantageous use. (ord. of 3-26-1996)

5-7 REQUIRED IMPROVEMENTS

Sec. 5-7-1. Improvements to bear seal of registered professional engineer.

After the preliminary plat approval, the plans and specifications for the following improvements shall bear the seal of a registered professional engineer. The engineer is invited to consult with the Mayor for design criteria. The plans and specifications must be approved by the Mayor prior to the beginning of any work on improvements. (ord. of 3-26-1996)

Sec. 5-7-2. Construction of improvements.

Construction of improvements shall not commence until the preliminary plat has been approved and plans and specifications for the improvements have been prepared by the subdivider's engineer and approved by the Mayor. (ord. of 3-26-1996)

Sec. 5-7-3. Improvements installed by subdivider.

The subdivider shall be required to install at his expense the following improvements:

(1) Monuments. Concrete monuments at least thirty (30) inches in length and four (4) inches square with a suitable center point shall be provided at all intersections of rights-of-way at street intersections and changes of direction in streets and metal markers one-half inch in diameter and thirty (30) inches long at all lot corners.

(2) Clearing and grubbing of street right-of-way. Clear and grub the entire street right-of-way.

(3) Paving with curbs and gutters. The subdivider shall grade, pave and construct street paving, with curb and gutter, in accordance with current Town specifications. All plans shall be drawn and paving done in accordance with a typical section approved by the Mayor. All paving work is to be inspected during all phases of the work by an official representative of the Town engineer. The construction staking shall be done by the subdivider's engineer and at the subdivider's expense. Standard paved drives and all necessary street drainage, including storm sewers outside the street right-of-way, shall be constructed by the subdivider, at his expense, in accordance with Town regulations and standards, as determined by the Mayor. Curbs and gutters are not required with the wider right of way and larger

(4) Strip paving. When, in the sole judgment of the Town council, unusual conditions exist that make the cost of construction of streets with curb and gutter exorbitant or clearly not in the public interest, then, and only then, may the Town council permit the subdivider to construct strip paving in lieu of construction required by subsection (3) of section 5-7-3.

(5) Storm drainage. Adequate drainage shall be provided by the subdivider.

The plan for such drainage shall bear the stamp of a registered professional engineer. The plan must be approved by the Town engineer and shall be based upon the following criteria:

a. Storm sewers and/or ditches shall be designed to carry not less than the storm-water from a rainfall expected to occur once in twenty-five (25) years with a runoff factor of eighty-five (85) percent for pavements and buildings, twenty (20) percent for sandy soil, and forty (40) percent for soil with clay subgrade or surface. Storm drainage design shall be based upon the rational formula.

b. All drainage calculations shall accompany the street profiles and shall be in a form easily checked.

c. Where stormwater must be drained from the street across private property to natural drains, same shall be piped from the street one hundred (100) feet toward the natural drains. A drainage easement shall be provided fifteen (15) feet wide for maintenance. Where storm sewers cannot be covered, a concrete ditch will be provided of sufficient capacity to handle the water expected as outlined in a.

d. All pipes installed shall be class III reinforced concrete pipe, except where pipes larger than thirty-six (36) inch diameter are required; approved corrugated metal culverts or bridges may be installed. No wood bridge will be allowed. Corrugated metal pipe shall be asphalt coated and invert paved and be the gauge as recommended by the manufacturer for installation involved.

e. Endwalls or inlets, whichever is appropriate, shall be constructed on the ends of all pipes installed under the provisions of this article. The endwalls and inlets shall be placed and constructed in accordance to the then current Town standards used in the design and the construction of other street improvements projects (street paving).

f. Wherever streets are strip paved, all ditches that are over three (3) feet deep (with reference to the shoulder) will be culverted and catch basins installed not more than one hundred (100) feet apart in accordance with Town engineer requirements.

g. All ditches shall be dug with a minimum grade of five-tenths percent, and a maximum of six (6) percent.

h. Ditch bottoms shall be constructed according to typical section as provided by the Town engineer. (See Illustration 12 on file in Town, Ordinance Book 5, page 38.)

i. Front and rear slopes of all ditches shall be sloped uniformly from the bottom of the ditches on a slope not to exceed two (2) feet horizontally to one (1) foot vertically.

j. Where a subdivision is traversed by a watercourse, drainage way, natural channel or stream, there may be required an easement or right-of-way conforming substantially to the limit of such watercourse, plus additional width to accommodate future needs, as requested by the Town engineer.

k. Ditches shall be dug to a minimum depth of eighteen (18) inches where driveway culverts will be replaced.

The construction will be supervised by the Town engineer and must be approved by him.

(6) Sanitary sewers. The subdivider shall install sanitary sewers in accordance with standards adopted and prescribed by the Mayor; however, the Town council, in its sole discretion, may waive the requirement that sewers be installed when it is the judgment

of the Town council that such installation is prohibitively costly to the subdivider. In instances where the Town council waives the installation of sanitary sewers, the subdivider, as a condition precedent to the acceptance of the subdivision by the Town, must provide easements for the later installation of sanitary sewers.

In the interest of encouraging the development of new single-family residential subdivisions within the Town, the Town will participate in the cost of providing sanitary sewers for new single-family residential subdivision developments to the extent of paying one-third of the cost of the sanitary sewer system for each new subdivision development (including connections from the main to the edge of the street right-of-way or easement for the sanitary sewer line or lines when installed at the time of development). Such participation by the Town in the cost of sanitary sewer systems for new single-family residential subdivision developments shall be based on the Town engineer's estimate of cost of providing each such sanitary sewer system in accordance with the subdivider's plans which have been approved by the Town engineer prior to the time construction begins on the sanitary sewer system.

Whenever a private sewage-disposal system or septic tank or both shall be constructed for the securing of any establishment, such construction shall be performed to meet the requirements of Chapter 290-5-26, On-site Sewage Management Systems, of the Rules of the Georgia Department of Human Resources, in effect at the time of construction.

(6) Improvements or bond. Before consideration of a final plat of a subdivision, the planning commission must be satisfied that all improvements required by this chapter have been constructed. In lieu of the completion of the improvements, the applicant shall file with the Town a surety bond conditioned to secure the construction of the improvements required by this chapter in a manner satisfactory to the Town and within a period of time not to exceed one (1) year from date of approval of the final plat, provided, however, that the planning commission shall have authority to extend such period of time not to exceed three (3) years. The amount of the bond shall be in an amount equal to one hundred ten (110) percent of the estimated cost of the construction of the improvements required by this chapter, such estimate to be made by the Town engineer. The surety will be subject to the condition that the required improvements will be completed within twelve (12) months after approval of the final plat, and if they are not completed, the Town may proceed with the work and hold the applicant and the surety jointly and severally responsible for the costs thereof. Such bond shall be executed by a corporate surety company authorized to do business in the state, holding a certificate of authority from the Secretary of the Treasury of the United States as acceptable sureties on federal bonds, and executed and issued by a resident agent licensed and having an office in the state, representing such corporate surety. As an alternative to the surety bond, the applicant may deposit with the Town a certified check made payable to the Town of Talking Rock or issue a letter of credit to the Town of Talking Rock from a financial institution approved by the Town manager, such letter of credit to be in a form approved by the Town attorney. The amount of the certified check or letter of credit shall be the same as would otherwise be required for the surety bond as set forth above.

(ord. of 3-26-1996)

Se\ 5-7-4. Improvements to be installed by the Town.

(a) Street name markers. One (1) street name marker shall be provided at the corner of all street intersections.

(b) Water mains and fire hydrants. Adequate water mains and fire hydrants shall be

installed prior to the paving. The subdivider must see that the Town water and light department is informed in time to coordinate this portion of the work.

(c) Gas mains. Adequate gas mains may be installed prior to the paving. The subdivider must see that the Town water and light department is informed in time to coordinate this portion of the work.

(d) Power transmissions Lines. Adequate overhead power transmission lines will be installed prior to the paving. The subdivider must see that the Town water and light department are informed in time to coordinate this portion of the work.

(ord. of 3-26-1996)

5-8 PRIVATE ROAD DEVELOPMENT

Sec. 5-8-1 Exemption

A subdivision can be exempt from the requirements of Sections 5-5-8, 5-5-9, 5-5-10, 5-6-5, 5-7-3(3) and 5-7-3(4) if it meets the requirements detailed in this chapter. (ord. of 3-26-1996)

Sec. 5-8-2 Requirements for exemption

A subdivision is exempt from the provisions listed under 5-8-1 if the development meets the requirements:

(1) There is a non-profit corporation (Property Owners Association) which has been granted ownership of all roadways, common areas, and streets which is the sole access to the individual lots in said subdivision.

(2) There are recorded covenants and restrictions that provide the Property Owners Association with a means to assess the owners of the individual lots for the cost and expenses of maintaining said roadways, common areas and streets.

(3) Each purchaser of a lot in the Subdivision signs an acknowledgement statement, which is recorded in the Deed Records of Pickens County, in the form approved by the Zoning Administrator, that the roads giving access to the lot are on private roads which can not ever become Town Maintained.

(4) That the recorded subdivision covenants require that each subsequent purchaser of each lot must sign a new acknowledgement as required under Sections 5-8-2(3).

(5) That the Property Owners Association own the streets which have been built with a minimum right of way of 40 feet, with at least 12 feet of 6 inches of graded aggregate base.

(6) That no lot in the subdivision is less than five (5) acres.

(ord. of 3-26-1996)

Chapter 6

Soil Erosion And Sedimentation Control Ordinance

SECTION 6-1-1

This chapter shall be known as "the Soil Erosion and Sedimentation Control Ordinance of the Town of Talking Rock."

SECTION 6-1-2 DEFINITIONS

The following definitions shall apply in the interpretation and enforcement of this ordinance, unless otherwise specifically stated:

1. **Best Management Practices (BMP's):** A collection of structural practices and vegetative measures which, when properly designed, installed and maintained, will provide effective erosion and sedimentation control. The term "properly designed" means designed in accordance with the hydraulic design specifications contained in the *Manual for Erosion and Sediment Control in Georgia* specified in O.C.G.A. 12-7-6 subsection (b).
2. **Board:** The Board of Natural Resources.
3. **Buffer:** The area of land immediately adjacent to the banks of state waters in its natural state of vegetation, which facilitates the protection of water quality and aquatic habitat.
4. **Commission:** The State Soil & Water Conservation Commission.
5. **Cut:** A portion of land surface or area from which earth has been removed or will be removed by excavation; the depth below original ground surface to excavated surface. Also known as excavation.
6. **Department:** The Department of Natural Resources.
7. **Director:** The Director of the Environmental Protection Division of the Department of Natural Resources.
8. **District:** The Limestone Valley Soil and Water Conservation District.
9. **Division:** The Environmental Protection Division of the Department of Natural Resources.
10. **Drainage Structure:** A device composed of a virtually nonerodible material such as concrete, steel, plastic or other such material that conveys water from one place to another by intercepting the flow and carrying it to a release point for storm-water management, drainage control, or flood control purposes.
11. **Erosion:** The process by which land surface is worn away by the action of wind, water, ice or gravity.
12. **Erosion and Sedimentation Control Plan:** A plan for the control of soil erosion and sedimentation resulting from a land-disturbing activity. Also known as the "plan".
13. **Fill:** A portion of land surface to which soil or other solid material has been added; the

- depth above the original ground.
14. **Finished Grade:** The final elevation and contour of the ground after cutting or filling and conforming to the proposed design.
 15. **Grading:** Altering the shape of ground surfaces to a predetermined condition; this includes stripping, cutting, filling, stockpiling and shaping or any combination thereof and shall include the land in its cut or filled condition.
 16. **Ground Elevation:** The original elevation of the ground surface prior to cutting or filling.
 17. **Land-Disturbing Activity:** Any activity which may result in soil erosion from water or wind and the movement of sediments into state waters or onto lands within the state, including, but not limited to, clearing, dredging, grading, excavating, transporting, and filling of land but not including agricultural practices as described in Section III, Paragraph 5.
 18. **Larger Common Plan of Development or Sale:** A contiguous area where multiple separate and distinct construction activities are occurring under one plan of development or sale. For the purposes of this paragraph, "plan" means an announcement; piece of documentation such as a sign, public notice or hearing, sales pitch, advertisement, drawing, permit application, zoning request, or computer design; or physical demarcation such as boundary signs, lot stakes, or surveyor markings, indicating that construction activities may occur on a specific plot.
 19. **Local Issuing Authority:** The governing authority of any county or municipality which is certified pursuant to subsection (a) O.C.G.A. 12-7-8.
 20. **Metropolitan River Protection Act (MRPA):** A state law referenced as O.C.G.A. 12-5-440 et.seq. which addresses environmental and developmental matters in certain metropolitan river corridors and their drainage basins.
 21. **Natural Ground Surface:** The ground surface in its original state before any grading, excavation or filling.
 22. **Nephelometric Turbidity Units (NTU):** Numerical units of measure based upon photometric analytical techniques for measuring the light scattered by finely divided particles of a substance in suspension. This technique is used to estimate the extent of turbidity in water in which colloiddally dispersed particles are present.
 23. **Operator:** The party or parties that have: (A) operational control of construction project plans and specifications, including the ability to make modifications to those plans and specifications; or (B) day-to-day operational control of those activities that are necessary to ensure compliance with a storm-water pollution prevention plan for the site or other permit conditions, such as a person authorized to direct workers at a site to carry out activities required by the storm-water pollution prevention plan or to comply with other permit conditions.
 24. **Permit:** The authorization necessary to conduct a land-disturbing activity under the provisions of this ordinance.
 25. **Person:** Any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, state agency, municipality or other political subdivision of this State, any interstate body or any other legal entity.
 26. **Project:** The entire proposed development project regardless of the size of the area of land to be disturbed.
 27. **Qualified Personnel:** Any person who meets or exceeds the education and training

- requirements of O.C.G.A. 12-7-19.
28. **Roadway Drainage Structure:** A device such as a bridge, culvert, or ditch, composed of a virtually nonerodible material such as concrete, steel, plastic, or other such material that conveys water under a roadway by intercepting the flow on one side of a traveled way consisting of one or more defined lanes, with or without shoulder areas, and carrying water to a release point on the other side.
 29. **Sediment:** Solid material, both organic and inorganic, that is in suspension, is being transported, or has been moved from its site of origin by air, water, ice, or gravity as a product of erosion.
 30. **Sedimentation:** The process by which eroded material is transported and deposited by the action of water, wind, ice or gravity.
 31. **Soil and Water Conservation District Approved Plan:** An erosion and sedimentation control plan approved in writing by the Limestone Valley soil and water conservation district.
 32. **Stabilization:** The process of establishing an enduring soil cover of vegetation by the installation of temporary or permanent structures for the purpose of reducing to a minimum the erosion process and the resultant transport of sediment by wind, water, ice or gravity.
 33. **State General Permit:** The National Pollution Discharge Elimination System general permit or permits for storm-water runoff from construction activities as is now in effect or as may be amended or reissued in the future pursuant to the state's authority to implement the same through federal delegation under the Federal Water Pollution Control Act, as amended. 33 U.S.C. Section 1251. et seq., and subsection (f) of Code Section 12-5-30.
 34. **State Waters:** Any and all rivers, streams, creeks, branches, lakes, reservoirs, ponds, drainage systems, springs, wells, and other bodies of surface or subsurface water, natural or artificial, lying within or forming a part of the boundaries of the State which are not entirely confined and retained completely upon the property of a single individual, partnership, or corporation.
 35. **Structural Erosion and Sedimentation Control Practices:** Practices for the stabilization of erodible or sediment producing areas by utilizing the mechanical properties of matter for the purpose of either changing the surface of the land or storing, regulating or disposing of runoff to prevent excessive sediment loss. Examples of structural erosion and sediment control practices are riprap, sediment basins, dikes, level spreaders, waterways or outlets, diversions, grade stabilization structures, sediment traps and land grading, etc. Such practices can be found in the publication *Manual for Erosion and Sediment Control in Georgia*.
 36. **Trout Streams:** All streams or portions of streams within the watershed as designated by the Game and Fish Division of the Georgia Department of Natural Resources under the provisions of the Georgia Water Quality Control Act, O.C.G.A. 12-5-20 et seq. Streams designated as primary trout waters are defined as water supporting a self-sustaining population of rainbow, brown or brook trout. Streams designated as secondary trout waters are those in which there is no evidence of natural trout reproduction, but are capable of supporting trout throughout the year. First order trout waters are streams into which no other streams flow except springs.
 37. **Vegetative Erosion and Sedimentation Control Measures:** Measures for the stabilization of erodible or sediment-producing areas by covering the soil with:
 - a. Permanent seeding, sprigging or planting, producing long-term vegetative

- cover; or
- b. Temporary seeding, producing short-term vegetative cover; or
- c. Sodding, covering areas with a turf of perennial sod-forming grass.

Such measures can be found in the publication *Manual for Erosion and Sediment Control in Georgia*.

- 38. **Watercourse:** Any natural or artificial watercourse, stream, river, creek, channel, ditch, canal, conduit, culvert, drain, waterway, gully, ravine, or wash in which water flows either continuously or intermittently and which has a definite channel, bed and banks, and including any area adjacent thereto subject to inundation by reason of overflow or floodwater.
- 39. **Wetlands:** Those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs and similar areas.

SECTION 6-1-3 EXEMPTIONS

This ordinance shall apply to any land-disturbing activity undertaken by any person on any land except for the following:

- 1. Surface mining, as the same is defined in O.C.G.A. 12-4-72, "Mineral Resources and Caves Act";
- 2. Granite quarrying and land clearing for such quarrying;
- 3. Such minor land-disturbing activities as home gardens and individual home landscaping, repairs, maintenance work, fences, and other related activities which result in minor soil erosion;
- 4. The construction of single-family residences, when such construction disturbs less than one acre and is not a part of a larger common plan of development or sale with a planned disturbance of equal to or greater than one acre and not otherwise exempted under this paragraph; provided, however, that construction of any such residence shall conform to the minimum requirements as set forth in Section IV of this ordinance and this paragraph. For single-family residence construction covered by the provisions of this paragraph, there shall be a buffer zone between the residence and any state waters classified as trout streams pursuant to Article 2 of Chapter 5 of the Georgia Water Quality Control Act. In any such buffer zone, no land-disturbing activity shall be constructed between the residence and the point where vegetation has been wrested by normal stream flow or wave action from the banks of the trout waters. For primary trout waters, the buffer zone shall be at least 50 horizontal feet, and no variance to a smaller buffer shall be granted. For secondary trout waters, the buffer zone shall be at least 50 horizontal feet, but the Director may grant variances to no less than 25 feet. Regardless of whether a trout stream is primary or secondary, for first order trout waters, which are streams into which no other streams flow except for springs, the buffer shall be at least 25 horizontal feet, and no variance to a smaller buffer shall be granted. The minimum requirements of Section IV of this ordinance and the buffer zones provided by this section shall be enforced by the issuing authority;
- 5. Agricultural operations as defined in O.C.G.A. 1-3-3, "definitions", to include raising, harvesting or storing of products of the field or orchard; feeding, breeding or managing livestock or poultry; producing or storing feed for use in the production of livestock, including but not limited to cattle, calves, swine, hogs, goats, sheep, and

rabbits or for use in the production of poultry, including but not limited to chickens, hens and turkeys; producing plants, trees, fowl, or animals; the production of aqua culture, horticultural, dairy, livestock, poultry, eggs and apiarian products; farm buildings and farm ponds;

6. Forestry land management practices, including harvesting; provided, however, that when such exempt forestry practices cause or result in land-disturbing or other activities otherwise prohibited in a buffer, as established in paragraphs (15) and (16) of Section IV C. of this ordinance, no other land-disturbing activities, except for normal forest management practices, shall be allowed on the entire property upon which the forestry practices were conducted for a period of three years after completion of such forestry practices;
7. Any project carried out under the technical supervision of the Natural Resources Conservation Service of the United States Department of Agriculture;
8. Any project involving less than one acre of disturbed area; provided, however, that this exemption shall not apply to any land-disturbing activity within a larger common plan of development or sale with a planned disturbance of equal to or greater than one acre or within 200 feet of the bank of any state waters, and for purposes of this paragraph, "State Waters" excludes channels and drainageways which have water in them only during and immediately after rainfall events and intermittent streams which do not have water in them year-round; provided, however, that any person responsible for a project which involves less than one acre, which involves land-disturbing activity, and which is within 200 feet of any such excluded channel or drainageway, must prevent sediment from moving beyond the boundaries of the property on which such project is located and provided, further, that nothing contained herein shall prevent the Local Issuing Authority from regulating any such project which is not specifically exempted by paragraphs 1, 2, 3, 4, 5, 6, 7, 9 or 10 of this section;
9. Construction or maintenance projects, or both, undertaken or financed in whole or in part, or both, by the Department of Transportation, the Georgia Highway Authority, or the State Tollway Authority; or any road construction or maintenance project, or both, undertaken by any county or municipality; provided, however that construction or maintenance projects of Department of Transportation or State Tollway Authority which disturb one or more contiguous acres of land shall be subject to provisions of O.C.G.A. 12-7-7.1; except where the Department of Transportation, the Georgia Highway Authority, or the State Road and Tollway Authority is a secondary permittee for a project located within a larger common plan of development or sale under the state general permit, in which case a copy of a notice of intent under the state general permit shall be submitted to the local issuing authority, the local issuing authority shall enforce compliance with the minimum requirements set forth in O.C.G.A. 12-7-6 as if a permit had been issued, and violations shall be subject to the same penalties as violations by permit holders;
10. Any land-disturbing activities conducted by any electric membership corporation or municipal electrical system or any public utility under the regulatory jurisdiction of the Public Service Commission, the Energy Regulatory Commission, any cable television system as defined in O.C.G.A. 36-18-1, or any agency or instrumentality of the United States engaged in the generation, transmission, or distribution of power; except where an electric membership corporation or municipal electrical system or any public utility under the regulatory Jurisdiction of the Public Service Commission, any utility under the regulatory Jurisdiction of the Federal Energy Regulatory Commission, any cable television system as defined in O.C.G.A. 36-18-1, or any agency or

instrumentality of the United States engaged in the generation, transmission, or distribution of power is a secondary permittee for a project located within a larger common plan of development or sale under the state general permit, in which case the local issuing authority shall enforce compliance with the minimum requirements set forth in O.C.G.A. 12-7-6 as if a permit had been issued, and violations shall be subject to the same penalties as violations by permit holder; and

11. Any public water system reservoir.

SECTION 6-1-4 MINIMUM REQUIREMENTS FOR EROSION AND SEDIMENTATION CONTROL USING BEST MANAGEMENT PRACTICES

A. GENERAL PROVISIONS

Excessive soil erosion and resulting sedimentation can take place during land-disturbing activities. Therefore, plans for those land-disturbing activities which are not exempted by this ordinance shall contain provisions for application of soil erosion and sedimentation control measures and practices. The provisions shall be incorporated into the erosion and sedimentation control plans. Soil erosion and sedimentation control measures and practices shall conform to the minimum requirements of Section IV B. & C. of this ordinance. The application of measures and practices shall apply to all features of the site, including street and utility installations, drainage facilities and other temporary and permanent improvements. Measures shall be installed to prevent or control erosion and sedimentation pollution during all stages of any land-disturbing activity.

B. MINIMUM REQUIREMENTS/BMPs

1. Best management practices as set forth in Section IV B. & C. of this ordinance shall be required for all land-disturbing activities. Proper design, installation, and maintenance of best management practices shall constitute a complete defense to any action by the Director or to any other allegation of noncompliance with paragraph (2) of this subsection or any substantially similar terms contained in a permit for the discharge of storm water issued pursuant to subsection (f) of O.C.G.A. 12-5-30, the "Georgia Water Quality Control Act". As used in this subsection, the terms "proper design" and "properly designed" mean designed in accordance with the hydraulic design specifications contained in the *Manual for Erosion and Sediment Control in Georgia* specified in O.C.G.A. 12-7-6 subsection (b).
2. A discharge of storm water runoff from disturbed areas where best management practices have not been properly designed, installed, and maintained shall constitute a separate violation of any land-disturbing permit issued by a local Issuing Authority or of any state general permit issued by the Division pursuant to subsection (f) of O.C.G.A. 12-5-30, the "Georgia Water Quality Control Act", for each day on which such discharge results in the turbidity of receiving waters being increased by more than 25 nephelometric turbidity units for waters supporting warm water fisheries or by more than ten nephelometric turbidity units for waters classified as trout waters.

- The turbidity of the receiving waters shall be measured in accordance with guidelines to be issued by the Director. This paragraph shall not apply to any land disturbance associated with the construction of single family homes which are not part of a larger common plan of development or sale unless the planned disturbance for such construction is equal to or greater than five acres.
3. Failure to properly design, install, or maintain best management practices shall constitute a violation of any land-disturbing permit issued by a Local Issuing Authority or of any state general permit issued by the Division pursuant to subsection (f) of Code Section 12-5-30, the "Georgia Water Quality Control Act", for each day on which such failure occurs.
 4. The Director may require, in accordance with regulations adopted by the Board, reasonable and prudent monitoring of the turbidity level of receiving waters into which discharges from land disturbing activities occur.
 - C. The rules and regulations, ordinances, or resolutions adopted pursuant to this chapter for the purpose of governing land-disturbing activities shall require, as a minimum, protections at least as stringent as the state general permit; and best management practices, including sound conservation and engineering practices to prevent and minimize erosion and resultant sedimentation, which are consistent with, and no less stringent than, those practices contained in the *Manual for Erosion and Sediment Control in Georgia* published by the Georgia Soil and Water Conservation Commission as of January 1 of the year in which the land-disturbing activity was emitted, as well as the following:
 1. Stripping of vegetation, regrading and other development activities shall be conducted in a manner so as to minimize erosion;
 2. Cut-fill operations must be kept to a minimum;
 3. Development plans must conform to topography and soil type so as to create the lowest practical erosion potential;
 4. Whenever feasible, natural vegetation shall be retained, protected and supplemented;
 5. The disturbed area and the duration of exposure to erosive elements shall be kept to a practicable minimum;
 6. Disturbed soil shall be stabilized as quickly as practicable;
 7. Temporary vegetation or mulching shall be employed to protect exposed critical areas during development;
 8. Permanent vegetation and structural erosion control practices shall be installed as soon as practicable;
 9. To the extent necessary, sediment in run-off water must be trapped by the use of debris basins, sediment basins, silt traps, or similar measures until the disturbed area is stabilized. As used in this paragraph, a disturbed area is stabilized when it is brought to a condition of continuous compliance with the requirements of O.C.G.A. 12-7-1 et. seq.;
 10. Adequate provisions must be provided to minimize damage from surface water to the cut face of excavations or the sloping of fills;
 11. Cuts and fills may not endanger adjoining property;
 12. Fills may not encroach upon natural watercourses or constructed channels in a manner so as to adversely affect other property owners;
 13. Grading equipment must cross flowing streams by means of bridges or culverts except when such methods are not feasible, provided, in any case, that such

crossings are kept to a minimum;

14. Land-disturbing activity plans for erosion and sedimentation control shall include provisions for treatment or control of any source of sediments and adequate sedimentation control facilities to retain sediments on-site or preclude sedimentation of adjacent waters beyond the levels specified in Section IV B. 2. of this ordinance;
15. Except as provided in paragraph (16) of this subsection, there is established a 25 foot buffer along the banks of all state waters, as measured horizontally from the point where vegetation has been wrested by normal stream flow or wave action, except where the Director determines to allow a variance that is at least as protective of natural resources and the environment, where otherwise allowed by the Director pursuant to O.C.G.A. 12-2-8, or where a drainage structure or a roadway drainage structure must be constructed, provided that adequate erosion control measures are incorporated in the project plans and specifications, and are implemented; provided, however, the buffers of at least 25 feet established pursuant to part 6 of Article 5, Chapter 5 of Title 12, the "Georgia Water Quality Control Act", shall remain in force unless a variance is granted by the Director as provided in this paragraph. The following requirements shall apply to any such buffer:
 - a. No land-disturbing activities shall be conducted within a buffer and a buffer shall remain in its natural, undisturbed state of vegetation until all land-disturbing activities on the construction site are completed. Once the final stabilization of the site is achieved, a buffer may be thinned or trimmed of vegetation as long as a protective vegetative cover remains to protect water quality and aquatic habitat and a natural canopy is left in sufficient quantity to keep shade on the stream bed; provided, however, that any person constructing a single-family residence, when such residence is constructed by or under contract with the owner for his or her own occupancy, may thin or trim vegetation in a buffer at any time as long as protective vegetative cover remains to protect water quality and aquatic habitat and a natural canopy is left in sufficient quantity to keep shade on the stream bed; and
 - b. The buffer shall not apply to the following land-disturbing activities, provided that they occur at an angle, as measured from the point of crossing, within 25 degrees of perpendicular to the stream: cause a width of disturbance of not more than 50 feet within the buffer; and adequate erosion control measures are incorporated into the project plans and specifications and are implemented: (i) Stream crossings for water lines; or (ii) Stream crossings for sewer lines; and
16. There is established a 50 foot buffer as measured horizontally from the point where vegetation has been wrested by normal stream flow or wave action, along the banks of any state waters classified as "trout streams" pursuant to Article 2 of Chapter 5 of Title 12, the "Georgia Water Quality Control Act", except where a roadway drainage structure must be constructed; provided, however, that small springs and streams classified as trout streams which discharge an average annual flow of 25 gallons per minute or less shall have a 25 foot buffer or they may be piped, at the discretion of the landowner, pursuant to the terms of a rule providing for a general variance promulgated by the Board, so long as any such pipe stops short of the downstream landowner's property and the landowner complies with the buffer requirement for any adjacent trout streams. The Director may grant a variance from such buffer to allow land-disturbing activity, provided that adequate erosion control measures are incorporated in the project plans and specifications and are implemented. The following requirements shall apply to such buffer:
 - a. No land-disturbing activities shall be conducted within a buffer and a buffer shall

- remain in its natural, undisturbed, state of vegetation until all land-disturbing activities on the construction site are completed. Once the final stabilization of the site is achieved, a buffer may be thinned or trimmed of vegetation as long as a protective vegetative cover remains to protect water quality and aquatic habitat and a natural canopy is left in sufficient quantity to keep shade on the stream bed: provided, however, that any person constructing a single- family residence, when such residence is constructed by or under contract with the owner for his or her own occupancy, may thin or trim vegetation in a buffer at any time as long as protective vegetative cover remains to protect water quality and aquatic habitat and a natural canopy is left in sufficient quantity to keep shade on the stream bed; and
- b. The buffer shall not apply to the following land-disturbing activities, provided that they occur at an angle, as measured from the point of crossing, within 25 degrees of perpendicular to the stream: cause a width of disturbance of not more than 50 feet within the buffer: and adequate erosion control measures are incorporated into the project plans and specifications and are implemented: (i) Stream crossings for water lines: or (ii) Stream crossings for sewer lines.
 - D. Nothing contained in this chapter shall prevent any Local Issuing Authority from adopting rules and regulations, ordinances, or resolutions which contain stream buffer requirements that exceed the minimum requirements in Section IV B. & C. of this ordinance.
 - E. The fact that land-disturbing activity for which a permit has been issued results in injury to the property of another shall neither constitute proof of nor create a presumption of a violation of the standards provided for in this ordinance or the terms of the permit.

SECTION 6-1-5 APPLICATION/PERMIT PROCESS

A. GENERAL

The property owner, developer and designated planners and engineers shall review the general development plans and detailed plans of the Local Issuing Authority that affect the tract to be developed and the area surrounding it. They shall review the zoning ordinance, storm water management ordinance, subdivision ordinance, flood damage prevention ordinance, this ordinance, and other ordinances which regulate the development of land within the jurisdictional boundaries of the Local Issuing Authority. However, the operator is the only party who may obtain a permit.

B. APPLICATION REQUIREMENTS

1. No person shall conduct any land-disturbing activity within the jurisdictional boundaries of the Town of Talking Rock without first obtaining a permit from the Land Development Officer to perform such activity.
2. The application for a permit shall be submitted to the Land Development Officer and must include the applicant's erosion and sedimentation control plan with supporting data, as necessary. Said plans shall include, as a minimum, the data specified in Section V C. of this ordinance. Soil erosion and sedimentation control plans shall conform to the provisions of Section IV B. & C. of this ordinance. Applications for a permit will not be accepted unless accompanied by five copies of the applicant's soil erosion and

sedimentation control plans. All applications shall contain a certification stating that the plan preparer or the designee thereof visited the site prior to creation of the plan or that such a visit was not required in accordance with rules and regulations established by the board.

3. A fee, in the amount of \$_____ shall be charged for each acre or fraction thereof in the project area.
4. In addition to the local permitting fees, fees will also be assessed pursuant to paragraph (5) subsection (a) of O.C.G.A. 12-5-23, provided that such fees shall not exceed \$80.00 per acre of land-disturbing activity, and these fees shall be calculated and paid by the primary permittee as defined in the state general permit for each acre of land-disturbing activity included in the planned development or each phase of development. All applicable fees shall be paid prior to issuance of the land disturbance permit. In a jurisdiction that is certified pursuant to subsection (a) of O.C.G.A. 12-7-8 half of such fees levied shall be submitted to the division; except that any and all fees due from an entity which is required to give notice pursuant to paragraph (9) or (10) of O.C.G.A. 12-7-17 shall be submitted in full to the division, regardless of the existence of a local issuing authority in the jurisdiction.
5. Immediately upon receipt of an application and plan for a permit, the Local Issuing Authority shall refer the application and plan to the District for its review and approval or disapproval concerning the adequacy of the erosion and sedimentation control plan. A District shall approve or disapprove a plan within 35 days of receipt. Failure of a District to act within 35 days shall be considered an approval of the pending plan. The results of the District review shall be forwarded to the Issuing Authority. No permit will be issued unless the plan has been approved by the District, and any variances required by Section IV C. 15. & 16. and bonding, if required as per Section V B.5. (b), have been obtained. Such review will not be required if the Issuing Authority and the District have entered into an agreement which allows the Issuing Authority to conduct such review and approval of the plan without referring the application and plan to the District.
6. If a permit applicant has had two or more violations of previous permits, this ordinance section, or the Erosion and Sedimentation Act, as amended, within three years prior to the date of filing of the application under consideration, the Local Issuing Authority may deny the permit application.
7. The Local Issuing Authority may require the permit applicant to post a bond in the form of government security, cash, irrevocable letter of credit, or any combination thereof up to, but not exceeding, \$3,000.00 per acre or fraction thereof of the proposed land-disturbing activity, prior to issuing the permit. If the applicant does not comply with this ordinance or with the conditions of the permit after issuance, the Local Issuing Authority may call the bond or any part thereof to be forfeited and may use the proceeds to hire a contractor to stabilize the site of the land-disturbing activity and bring it into compliance. These provisions shall not apply unless there is in effect an ordinance or statute specifically providing for hearing and judicial review of any determination or order of the Local Issuing Authority with respect to alleged permit violations.

C. PLAN REQUIREMENTS

1. Plans must be prepared to meet the minimum requirements as contained in Section IV B. & C. of this ordinance.

Conformance with the minimum requirements may be attained through the use of design criteria in the current issue of the *Manual for Erosion and Sediment Control in Georgia*, published by the State Soil and Water Conservation Commission as a guide; or through the use of more stringent, alternate design criteria which conform to sound conservation and engineering practices. The *Manual for Erosion and Sediment Control in Georgia* is hereby incorporated by reference into this ordinance. The plan for the land-disturbing activity shall consider the interrelationship of the soil types, geological and hydrological characteristics, topography, watershed, vegetation, proposed permanent structures including roadways, constructed waterways, sediment control and storm water management facilities, local ordinances and State laws.

2. Data Required for Site Plan

- a. Narrative or notes, and other information: Notes or narrative to be located on the site plan in general notes or in erosion and sediment control notes.
- b. Description of existing land use at project site and description of proposed project.
- c. Name, address, and phone number of the property owner.
- d. Name and phone number of 24- hour local contact who is responsible for erosion and sedimentation controls.
- e. Size of project, or phase under construction, in acres.
- f. Activity schedule showing anticipated starting and completion dates for the project. Include the statement in **bold letters**, that "the installation of erosion and sedimentation control measures and practices shall occur prior to or concurrent with land-disturbing activities."
- g. Storm water and sedimentation management systems-storage capacity, hydrologic study, and calculations, including off-site drainage areas.
- h. Vegetative plan for all temporary and permanent vegetative measures, including species, planting dates, and seeding, fertilizer, lime, and mulching rates. The vegetative plan should show options for year-round seeding.
- i. Detail drawings for all structural practices. Specifications may follow guidelines set forth in the *Manual for Erosion and Sediment Control in Georgia*.
- j. Maintenance statement - "Erosion and sedimentation control measures will be maintained at all times. If full implementation of the approved plan does not provide for effective erosion and sediment control, additional erosion and sediment control measures shall be implemented to control or treat the sediment source."

3. Maps, drawings, and supportive computations shall bear the signature/seal of a registered or certified professional in engineering, architecture, landscape architecture, land surveying, or erosion and sedimentation control. After December 31, 2006, all persons involved in land development design, review, permitting, construction, monitoring, or inspection or any land-disturbing activity shall meet the education and training certification requirements as developed by the Commission pursuant to C.O.G.A.

12-7-20. The certified plans shall contain:

- a. Graphic scale and north point or arrow indicating magnetic north.
- b. Vicinity maps showing location of project and existing streets.
- c. Boundary line survey.
- d. Delineation of disturbed areas within project boundary.
- e. Existing and planned contours, with an interval in accordance with the following:

Map Scale	Ground Slope	Contour Interval, ft.
1 inch - 100ft. or larger scale	Flat 0-2% Rolling 2-8% Steep 8% +	0.5 or 1 1 or 2 2, 5 or 10

- f. Adjacent areas and feature areas such as streams, lakes, residential areas, etc. which might be affected should be indicated on the plan.
 - g. Proposed structures or additions to existing structures and paved areas.
 - h. Delineate the 25-foot horizontal buffer adjacent to state waters and the specified width in MRPA areas,
 - i. Delineate the specified horizontal buffer along designated trout streams, where applicable,
 - j. Location of erosion and sedimentation control measures and practices using coding symbols from the *Manual for Erosion and Sediment Control in Georgia*, Chapter 6.
4. Maintenance of all soil erosion and sedimentation control practices, whether temporary or permanent, shall be at all times the responsibility of the property owner.

D. PERMITS

1. Permits shall be issued or denied as soon as practicable but in any event not later than forty-five (45) days after receipt by the Local Issuing Authority of a completed application, providing variances and bonding are obtained, where necessary.
2. No permit shall be issued by the Local Issuing Authority unless the erosion and sedimentation control plan has been approved by the District and the Local Issuing Authority has affirmatively determined that the plan is in compliance with this ordinance, any variances required by Section IV C. 15. & 16. are obtained, bonding requirements, if necessary, as per Section V B. 5. (b) are met and all ordinances and rules and regulations in effect within the jurisdictional boundaries of the Local Issuing Authority are met. If the permit is denied, the reason for denial shall be furnished to the applicant.
3. If the tract is to be developed in phases, then a separate permit shall be required for each phase.
4. The permit may be suspended, revoked, or modified by the Local Issuing Authority, as to all or any portion of the land affected by the plan, upon finding that the holder or his successor in the title is not in compliance with the approved erosion and sedimentation control plan or that the holder or his successor in title is in violation of this ordinance. A holder of a permit shall notify any successor in title to him as to all or any portion of the land affected by the approved plan of the conditions contained in the permit.

SECTION 6-1-6 INSPECTION AND ENFORCEMENT

A. The Town of Talking Rock will periodically inspect the sites of land-disturbing activities for which permits have been issued to determine if the activities are being conducted in accordance with the plan and if the measures required in the plan are effective in controlling erosion and sedimentation. Also, the Local Issuing Authority shall regulate both primary and secondary permittees as such terms are defined in the state

general permit. Primary permittees shall be responsible for installation and maintenance of best management practices where the primary permittee is conducting land-disturbing activities. Secondary permittees shall be responsible for installation and maintenance of best management practices where the secondary permittee is conducting land-disturbing activities. If, through inspection, it is deemed that a person engaged in land-disturbing activities as defined herein has failed to comply with the approved plan, with permit conditions, or with the provisions of this ordinance, a written notice to comply shall be served upon that person. The notice shall set forth the measures necessary to achieve compliance and shall state the time within which such measures must be completed. If the person engaged in the land-disturbing activity fails to comply within the time specified, he shall be deemed in violation of this ordinance.

B. The Land Development Officer shall have the power to conduct such investigations as it may reasonably deem necessary to carry out duties as prescribed in this ordinance, and for this purpose to enter at reasonable times upon any property, public or private, for the purpose of investigation and inspecting the sites of land-disturbing activities.

C. No person shall refuse entry or access to any authorized representative or agent of the Issuing Authority, the Commission, the District, or Division who requests entry for the purposes of inspection, and who presents appropriate credentials, nor shall any person obstruct, hamper or interfere with any such representative while in the process of carrying out his official duties.

D. The Districts or the Commission or both shall periodically review the actions of counties and municipalities which have been certified as Local Issuing Authorities pursuant to O.C.G.A. 12-7-8 (a). The Districts or the Commission or both may provide technical assistance to any county or municipality for the purpose of improving the effectiveness of the county's or municipality's erosion and sedimentation control program. The Districts or the Commission shall notify the Division and request investigation by the Division if any deficient or ineffective local program is found.

E. The Board, on or before December 31, 2003, shall promulgate rules and regulations setting forth the requirements and standards for certification and the procedures for decertification of a local issuing authority. The Division may periodically review the actions of counties and municipalities which have been certified as Local Issuing Authorities pursuant to Code Section 12-7-8 (a). Such review may include, but shall not be limited to, review of the administration and enforcement of a governing authority's ordinance and review of conformance with an agreement, if any, between the district and the governing authority. If such review indicates that the governing authority of any county or municipality certified pursuant to O.C.G.A. 12-7-8 (a) has not administered or enforced its ordinances or has not conducted the program in accordance with any agreement entered into pursuant to O.C.G.A. 12-7-7(e), the Division shall notify the governing authority of the county or municipality in writing. The governing authority of any county or municipality so notified shall have 30 days within which to take the necessary corrective action to retain certification as a Local Issuing Authority. If the county or municipality does not take necessary corrective action within 30 days after notification by the division, the division may revoke the certification of the county or municipality as a Local Issuing Authority.

SECTION 6-1-7 PENALTIES AND INCENTIVES

A. FAILURE TO OBTAIN A PERMIT FOR LAND-DISTURBING ACTIVITY

If any person commences any land-disturbing activity requiring a land-disturbing permit as prescribed in this ordinance without first obtaining said permit, the person shall be subject to revocation of his business license, work permit or other authorization for the conduct of a business and associated work activities within the jurisdictional boundaries of the Issuing Authority.

B. STOP-WORK ORDERS

1. For the first and second violations of the provisions of this ordinance, the Director or the Local Issuing Authority shall issue a written warning to the violator. The violator shall have five days to correct the violation. If the violation is not corrected within five days, the Director or the Local Issuing Authority shall issue a stop-work order requiring that land-disturbing activities be stopped until necessary corrective action or mitigation has occurred; provided, however, that, if the violation presents an imminent threat to public health or waters of the state or if the land-disturbing activities are conducted without obtaining the necessary permit, the Director or the Local Issuing Authority shall issue an immediate stop-work order in lieu of a warning;
2. For a third and each subsequent violation, the Director or the Local Issuing Authority shall issue an immediate stop-work order; and;
3. All stop-work orders shall be effective immediately upon issuance and shall be in effect until the necessary corrective action or mitigation has occurred.
4. When a violation in the form of taking action without a permit, failure to maintain a stream buffer, or significant amounts of sediment, as determined by the local issuing authority or by the director or his or her designee, have been or are being discharged into state waters and where best management practices have not been properly designed, installed, and maintained, a stop work order shall be issued by the local issuing authority or by the director or his or her designee. All such stop work orders shall be effective immediately upon issuance and shall be in effect until the necessary corrective action or mitigation has occurred. Such stop work orders shall apply to all land-disturbing activity on the site with the exception of the installation and maintenance of temporary or permanent erosion and sediment controls.

C. BOND FORFEITURE

If, through inspection, it is determined that a person engaged in land-disturbing activities has failed to comply with the approved plan, a written notice to comply shall be served upon that person. The notice shall set forth the measures necessary to achieve compliance with the plan and shall state the time within which such measures must be completed. If the person engaged in the land-disturbing activity fails to comply within the time specified, he shall be deemed in violation of this ordinance and, in addition to other penalties, shall be deemed to have forfeited his performance bond, if required to post one under the provisions of Section V B. 5.

(b). The Issuing Authority may call the bond or any part thereof to be forfeited and may use the proceeds to hire a contractor to stabilize the site of the land-disturbing activity and bring it into compliance.

D. MONETARY PENALTIES

Any person who violates any provisions of this ordinance, or any permit condition or limitation established pursuant to this ordinance, or who negligently or intentionally fails or refuses to comply with any final or emergency order of the Director issued as provided in this ordinance shall be liable for a civil penalty not

to exceed \$2,500.00 per day. For the purpose of enforcing the provisions of this ordinance, notwithstanding any provisions in any City charter to the contrary, municipal courts shall be authorized to impose penalty not to exceed \$2,500.00 for each violation. Notwithstanding any limitation of law as to penalties which can be assessed for violations of county ordinances, any magistrate court or any other court of competent jurisdiction trying cases brought as violations of this ordinance under county ordinances approved under this ordinance shall be authorized to impose penalties for such violations not to exceed \$2,500.00 for each violation. Each day during which violation or failure or refusal to comply continues shall be a separate violation.

SECTION 6-1-8 EDUCATION AND CERTIFICATION

After December 31, 2006, all persons involved in land development design, review, permitting, construction, monitoring, or inspection or any land-disturbing activity shall meet the education and training certification requirements, dependent on their level of involvement with the process, as developed by the Commission in consultation with the division and the stakeholder advisory board created pursuant to O.C.G.A. 12-7-20.

SECTION 6-1-9 ADMINISTRATIVE

APPEAL JUDICIAL REVIEW

A. ADMINISTRATIVE REMEDIES

The suspension, revocation, modification or grant with condition of a permit by the Issuing Authority upon finding that the holder is not in compliance with the approved erosion and sediment control plan; or that the holder is in violation of permit conditions; or that the holder is in violation of any ordinance; shall entitle the person submitting the plan or holding the permit to a hearing before the Town Council within 30 days after receipt by the Issuing Authority of written notice of appeal.

B. JUDICIAL REVIEW

Any person, aggrieved by a decision or order of the Issuing Authority, after exhausting his administrative remedies, shall have the right to appeal denovo to the Superior Court of Pickens County.

SECTION 6-1-10 EFFECTIVITY, VALIDITY AND LIABILITY

A. EFFECTIVITY

This ordinance shall become effective on
The _____ day of _____ 2004.

B. VALIDITY

If any section, paragraph, clause, phrase, or provision of this ordinance shall be adjudged invalid or held unconstitutional, such decisions shall not effect the remaining portions of this ordinance.

C. LIABILITY

1. Neither the approval of a plan under the provisions of this ordinance, nor the

compliance with provisions of this ordinance shall relieve any person from the responsibility for damage to any person or property otherwise imposed by law nor impose any liability upon the Issuing Authority or District for damage to any person or property.

2. The fact that a land-disturbing activity for which a permit has been issued results in injury to the property of another shall neither constitute proof of nor create a presumption of a violation of the standards provided for in this ordinance or the terms of the permit.
3. No provision of this ordinance shall permit any persons to violate the Georgia Erosion and Sedimentation Act of 1975, the Georgia Water Quality Control Act or the rules and regulations promulgated and approved thereunder or pollute any Waters of the State as defined thereby.

APPENDIX D

Model Soil Erosion and Sedimentation Control Ordinance

GaSWCC (Amended - 2003)

INSTRUCTIONS

This model ordinance contains 21 blanks which must be filled to complete certification. All the information entered, except for blanks 7 & 8, is considered substantive and necessary for implementation and compliance. Asterisks in the left and right margins of the pages indicate location of these blanks. Additionally, each blank is numbered and corresponds to the below listed guide.

Page	Blank*	Information
3	1	Zoning Board, Council, County Commission, Official, Etc.
3	2	County or Municipality Name
3	3	County or Municipality Name (same as Blank #2)
3	4	District Names - available from the State Soil and Water Conservation Commission at (706) 542-3065
5	5	Appropriate District Name - available from the State Soil and Water Conservation Commission at (706) 542-3065 (same as Blank #4)
11	6	County or Municipality Name (same as Blank #2)
11	7	Office of Issuing Authority that processes permits
11	8	Office of Issuing Authority that processes permits (same as Blank #7)
11	9	Number of Copies
11	10	Dollar Amount
14	12	Office of Issuing Authority that conducts inspections
14	13	Office of Issuing Authority that processes permits (same as Blank #8)
17	14	Zoning Board, Council, County Commission, Official, etc. (same as Blank #1)
17	15	Number of Days
17	16	County or Judicial Circuit
17	17	Day
17	18	Month
17	19	Year
17	20	Signature of Elected Official
17	21	Signature of Witness (usually clerk or recorded)

Upon adoption, a copy of the ordinance must be submitted for certification to the Georgia Department of Natural Resources Environmental Protection Division with an information copy to the State Soil and Water Conservation Commission at the following addresses:

Georgia Department of Natural Resources
 Environmental Protection Division
 Nonpoint Source Program
 Erosion and Sediment Control Unit
 Tradeport
 4220 International Parkway, Suite 101
 Atlanta, Georgia 30354
 Telephone: (404)675-6240

State Soil and Water Conservation Commission
 P. O. Box 8024
 Athens, GA 30603
 Telephone: (706) 542-3065

**AN ORDINANCE TO REGULATE
ADULT ENTERTAINMENT ESTABLISHMENTS
IN THE TOWN OF TALKING ROCK, GEORGIA**

WHEREAS, it is the desire of, the Town Council of the Town of Talking Rock to promote the general health, safety and welfare the Town of Talking Rock and to provide regulations on Adult Entertainment Establishments and,

NOW THEREFORE, BE IT ORDAINED that by the Town Council of the Town of Talking Rock, pursuant to the authority granted by the Constitution of the State of Georgia in Article 9, Section 2, Paragraph 1, adopts the above referenced Ordinance as follows:

Section 7-1-1. Purpose.

The purpose of this Ordinance is to regulate certain types of businesses, including but not limited to, adult entertainment establishments, to the end that the many types of criminal activities frequently engendered by such businesses and the adverse effect on property values and on the public health, safety, and welfare of the Town, and on its citizens and property, and on the character of its neighborhoods and development will be curtailed. This Ordinance is not intended as a de facto prohibition of legally-protected forms of expression. This Ordinance is intended to represent a balancing of competing interests: reduce criminal activity and protection of neighborhoods and development through the regulation of adult entertainment establishments verses any legally protected rights of adult entertainment establishments and patrons. This Ordinance is not intended to allow or license any business, establishment, or activity which would otherwise be unlawful.

Section 7-1-2. Definitions:

As used herein, the following words or phrases shall have the following meanings:

Town Council—The Town Council of the Town of Talking Rock, Georgia.

Mayor—The duly elected mayor of the Town of Talking Rock.

Church—A Place where persons regularly assemble for religious worship.

Conviction—Adjudication of guilt, plea of guilty, plea of nolo contendere or the forfeiture of a bond when charged with a crime, but shall not include a discharge under provisions of what is commonly called the State of Georgia First Offender Act.

Distance and measurement—The measurement in lineal feet from the center of any door of customer entry of the proposed premises of an adult entertainment establishment (or if not on ground level, then the beginning point for measuring the distance shall be the point at ground level determined by measuring from the center of any door of customer entry perpendicular to the ground level) to the nearest property line of any church, library, school, college, public park, residence or hospital. A radius shall be measured from the center of any door of customer entry of the proposed premises to the nearest property line of any church, library, school, college, pubic park, residence or hospital.

Minor—For purposes of this Ordinance means any person who has not attained the age of twenty-one years.

Park—Any lands or facility owned, operated, controlled or managed by the County, Town or federal government or any governmental entity in and upon which recreational activities or places are provided for the recreation and enjoyment of the general public.

Residence—A house, apartment, mobile home, boarding or rooming house, duplex, or other multi-family housing, for human dwelling.

School—State, county, Town, church or other schools, public or private, as teach the subjects commonly taught in the common schools of this state, and vocational schools, colleges, post-high school learning centers, kindergartens and day care centers for persons of all ages.

As used herein, the following words or phrases shall have the following meanings, and the premises on which defined establishments operate or on which defined activities occur shall constitute Adult Entertainment Establishments:

Adult bookstore—An establishment having a substantial or significant portion of its stock in trade, books, printed material, magazines or other periodicals which are distinguished or characterized by their emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas or an establishment with a segment or section, comprising at least 5 percent of its net sales consisting of printed materials which are distinguished or characterized by their emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical area.

Adult business—An establishment other than those expressly specified in this Ordinance, where employees or patrons expose specified anatomical areas or engage in specified sexual activities, or any other business or establishment which offers its patrons services or entertainment characterized by an emphasis on matter depicting, describing, discussing or relating to. specified sexual activities or specified anatomical areas.

Adult dancing establishment—A business or establishment that features dancers displaying or exposing specified anatomical areas.

Adult motion picture theater—An enclosed building with a capacity of fifty or more persons, used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas for observation by patrons therein.

Adult mini-motion picture theater—An enclosed building with a capacity for less than fifty persons used for presenting material distinguished or characterized by an emphasis on matter depicting or relating to specified sexual activities or specified anatomical areas.

Adult hotel or motel—A hotel or motel whose primary purpose along with lodging is the presentation of material which is distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas.

Adult motion picture arcade—Any place to which the public is permitted or invited wherein coin or slug-operated or electronically, electrically or mechanically controlled still or motion picture machines, projectors or other image-producing devices are maintained to show images

to five or fewer persons per machine at any one time and where the images so displayed are distinguished or characterized by an emphasis on depicting or describing specified sexual activities or specified anatomical area.

Adult video store—An establishment having a substantial or significant portion of its stock in trade, video tapes or movies or other reproduction, whether for sale or rent, which are distinguished or characterized by their emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas or an establishment with a segment or section, comprising at least 5 percent of its total floor space, devoted to the sale or display of such material or which derives more than 5 percent of its net sales from videos which are characterized or distinguished by their emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas.

Bathhouse and massage parlors—An establishment to which the public is permitted or invited and in which services offered include some form of physical contact between employee and patron and in which services offered are characterized or distinguished by an emphasis on specified sexual activities or specified anatomical areas.

Erotic entertainment/dance establishment—A nightclub, theater or other establishment which features live performances by topless and/or bottomless dancers or entertainers, go-go dancers, strippers, or similar entertainers, where such performances are distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.

Encounter center or rap establishment—Any business, agency or person who, for any form of consideration or gratuity, provides a place where two or more persons may congregate, assemble or associate for the primary purpose of engaging in, describing or discussing specified sexual activities, or exposing specified anatomical area.

Escort bureau, introduction services—Any business, agency or person who, for a fee, commission, hire, reward, profit or other consideration furnishes or offers to furnish names of persons, or who introduces, furnishes or arranges for persons who may accompany other persons to or about social affairs, entertainment or places of amusement, or who may consort with others at any place of public resort or within any private quarters.

Good moral character—means a person who has not been convicted of a felony, or any crime not a felony if it involves moral turpitude, in the past ten years. The Town may also take into account such other factors as are necessary to determine the good moral character of the applicant or employee. Conviction shall include pleas of nolo contendere or bond forfeiture when charged with such crime.

Specified sexual activities shall include any of the following:

- (1) Actual or simulated sexual intercourse, oral copulation, anal intercourse, oral anal copulation, bestiality, direct physical stimulation or unclothed genitals, flagellation or torture in the context of a sexual relationship, or the use of excretory functions in the context of a sexual relationship, and any of the following sexually-oriented acts or conduct: anilingus, buggery, coprophagy, coprophilia, cunnilingus, fellatio, necrophilia, pederasty, pedophilia, piquerism, sapphism, zoerasty; or
- (2) Clearly depicted human genitals in a state of sexual stimulation arousal or lumescence; or
- (3) Use of human or animal ejaculation, sodomy, oral copulation, coitus or masturbation;

- (4) Fondling or touching of nude human genitals, pubic region, buttocks or female breast;
- (5) Masochism, erotic or sexual-oriented torture, beating or the infliction of pain; or
- (6) Erotic or lewd touching, fondling or other sexually-oriented contact with an animal by a human being; or
- (7) Human excretion, urination, menstruation, vaginal or anal irrigation.

Specified anatomical areas shall include any of the following:

- (1) Less than completely and opaquely covered human genitals or pubic region, buttock or female breast below a point immediately above the top of the areola; or
- (2) Human male genitalia in a discernibly turgid state, even if completely and opaquely covered.

Section 7-1-3. License Required.

It shall be unlawful for any person, association, partnership, corporation, or other business entity, to engage in, operate, conduct or carry on, in or upon any premises, an adult entertainment establishment without first having complied with the provisions of this Ordinance, or without a currently valid Town license for the operation of an adult entertainment establishment. No license issued hereunder shall condone or make legal any activity thereunder if the same is deemed illegal or unlawful under the Laws of the State of Georgia or the United States or under any other ordinance, rule or regulation of the Town of Talking Rock.

Section 7-1-4. Admission of minors unlawful.

It shall be unlawful for any person to admit or permit the admission of minors or allow a minor to remain within a licensed premises.

Section 7-1-5. Sales to minors unlawful.

It shall be unlawful for any person to sell, exchange, barter, trade, give or offer to sell, exchange, barter, trade or give to any minor any entertainment, service, material, device or thing offered, for sale otherwise, at an adult entertainment facility.

Section 7-1-6. Certain activities prohibited.

- (1) No person, firm, partnership, association, corporation or other entity shall conduct any illegal activity in or upon the premises.
- (2) No licensee shall permit or suffer any employee or other person to appear nude or seminude where there is an individual payment offer or solicitation of money occurring between patron and employee.
- (3) No licensee shall permit any employee or patron to use artificial devices or inanimate objects to depict any of the prohibited activities described in this rule.
- (4) No licensee shall suffer or permit any employee or any person on the premises to insert an object into her vagina or her or his anal orifice, except for personal hygiene or necessity.

(5) No licensee shall suffer or permit an employee or any person on the premises to engage in actual or simulated genital masturbation or, in the case of females, fondling of the breasts.

(6) No licensee shall suffer or permit a male employee or any person on the premises to exhibit an unclothed erect penis.

(7) No licensee shall suffer or permit an employee or any person on the premises to engage in, or simulate bestiality.

(8) No person, while on any licensed premises, shall expose or be permitted to expose to public view with less than full opaque covering his or her genitals, pubic area, buttocks, anus or anal cleft or cleavage, in a lewd and obscene fashion.

(9) No employee or person while on a licensed premises shall expose or be permitted to dance or perform nude or seminude in such a manner as to stimulate sexual activity with any patron, spectator, employee or other person not employed therein.

(10) No person, while on a licensed premises, shall, while nude or seminude, be permitted to sit upon or straddle the leg, legs, lap or body of any patron, spectator, employee or other person therein, or to engage in or simulate sexual activity while touching or being touched by said patron, spectator or other person.

(11) No licensee shall suffer or permit the use of any areas on the premises of such establishment for sexual contact or private dancing performance or entertainment.

(12) No licensee shall suffer or permit any signage or advertisement which encourages, solicits, induces or promotes conduct or activities proscribed by this Ordinance.

(13) No alcoholic beverages of any kind shall be sold, possessed or consumed on the premises.

(14) No drugs or illegal or controlled substances of any kind shall be allowed, permitted, used, possessed or sold upon the premises, and no gambling shall be allowed or permitted therein.

Section 7-1-7. Distance requirements for location.

No adult entertainment establishment, business, or use shall be located within the following distances as defined and measured as stated herein:

- (1) within 1000 feet of any residence;
- (2) within 5 miles of a church, school, governmentally-owned or operated building, library, civic center, public park, hospital, community club, jail or prison;
- (3) within 1000 feet of another establishment regulated or defined hereunder;
- (4) within 5 miles of an establishment selling alcoholic beverages.

Each application for a license hereunder for which there is no existing Town license then in effect of the type for which application is being made shall include a blue line copy of surveyor's plat, 8 1/2" x 11" in size, with a scale of 1" per 200', showing the proposed location and the location of all customer entries in relation and distance, measured as provided in this Ordinance, to all real property and buildings on such real property which fall within the above distance requirements, together with the present uses of all such real property and the proposed location.

Each application for a location which has not previously been occupied for other than residential purposes or on which there is or is to be new construction shall also include a copy of a site plan.

After issuance of any license, no change in the location of the building on the premises or customer entry locations shall be made which would affect compliance with any distance requirements of this Ordinance.

Section 7-1-8. Adult entertainment, establishments employees.

(1) Employees of adult entertainment establishments shall not be less than 21 years of age and of good moral character.

(2) No person shall be employed in any capacity whatsoever, including, but not limited to, performers, entertainers and musicians, who has been convicted in this or any other county or state or in any federal court within 10 years immediately prior to the application for employment of soliciting for prostitution, pandering, letting premises for prostitution, keeping a disorderly place, illegally dealing in narcotics, sex offenses, or any charge relating to the manufacture or sale of intoxicating liquors, or any other felony or crime involving moral turpitude, or for whom any outstanding warrant exists on which service has not been perfected. "Be employed" shall include all work done or services performed while in the scope of employment on the premises and elsewhere than on the licensed premises, for compensation or otherwise.

(3) A permit to work in or be employed by an adult entertainment establishment, whether for compensation or otherwise, shall be required for all employees thereof. For the purpose of this Ordinance, independent contractors, such as entertainers, employed or hired by an adult entertainment establishment shall be considered as employees and shall be licensed as employees, regardless of the business relationship with the owner or licensee of any adult entertainment establishment. Each independent contractor shall be required to have and maintain his or her separate business license.

(4) No person requiring a permit may be employed by or work in an establishment until such person has filed an application, paid the fee for and obtained a work permit from the Pickens County Sheriffs Department.

(5) Any permit for employment issued hereunder shall expire 12 months from the date of issuance unless earlier revoked or suspended. The Pickens County Sheriffs Department may prescribe reasonable fees for certifying the eligibility for employment.

(6) It shall be the duty of all licensees of an adult entertainment establishment to file with the Pickens County Sheriffs Department the names of all employees with their home addresses and home telephone numbers and place(s) of employment. Changes in the list of employees must be filed with the Pickens County Sheriffs Department within three days from the date of any such changes.

(7) Employees holding permits issued pursuant to this Chapter shall at all times during their working hours have said permits available for inspection at the premises.

Section 7-1-9. Licensing and licenses.

(1) All licenses issued under this Chapter shall be a mere grant of privilege to carry on such business during the term of the license subject to all the terms and conditions imposed by this Ordinance and related laws, applicable provisions of this Code and other Ordinances and Resolutions of the Town relating to such business and all amendments thereto.

(2) All licenses hereunder shall have printed on the front these words: "This license is a mere privilege subject to be suspended and revoked under the provisions of the Ordinances of the Town of Talking Rock".

(3) A separate license shall be required for each place of business.

(4) No license shall be issued to any person who is less than 25 years of age.

(5) Any person, association, partnership or corporation desiring to obtain a license to operate, engage in, conduct or carry on any adult entertainment establishment shall make application to the Mayor or a designated representative. Prior to submitting such application, a processing fee of \$2,000.00 shall be paid to the Town to defray, in part, the cost of investigation and report required by this chapter. The Mayor shall issue a receipt showing that such processing fee has been paid.

(6) The application for permit does not authorize the engaging in, operation of, conduct of or carrying on of any adult entertainment establishment.

(7) The premises for which the application is sought shall be posted with a sign in accordance with Section 10.

(8) Application for license shall be written and on forms supplied by the Town at the Town's administration office.

(9) Such application shall state the full true name, address, and telephone number of the applicant; the place where the proposed business is to be located; the nature and character of the business to be carried on; if a partnership, the name of the partners; if a corporation, the names of the officers and shareholders; if other business entity, then the names of all persons holding any ownership or managerial interest therein; and such other reasonable information as may be required by the Town or the Pickens County Sheriffs Department, and be sworn to by the applicant.

Written proof that the applicant is not less than 25 years of age. Business, occupation or employment history of the applicant for the five years immediately preceding the date of application.

(10) The business license or occupation tax history of the applicant and whether such applicant, in previous operations in this or any other Town, county, state or territory under license, has had such license or occupation tax certificate for an adult entertainment business or similar type of business revoked or suspended, the reason therefore and the business activity or occupation subsequent to such action of suspension or revocation.

(11) If the applicant is a corporation, the name of the corporation shall be set forth exactly as shown in its articles of incorporation or charter, together with the place and date of incorporation, and the names and addresses of each of its current officers and directors. If the applicant is a partnership, the applicant shall set forth the name, residence address and dates of birth of partners. If the applicant is a limited partnership, it shall furnish a copy of its certificate of limited partnership filed with the Town Clerk. If one or more of the partners is a corporation, the provisions of this subsection pertaining to corporations shall apply. The applicant corporation or partnership shall designate one of its officer or general partners to act as its responsible managing officer. Such designated person shall complete and sign all application forms required of an individual applicant under this Chapter, but only one application fee shall be charged.

(12) If the applicant, any partners or any corporate officers or directors, if the applicant is a corporation, have been convicted of any crime involving a good moral character in the past 15 years and, if so, a complete description of any such crime including date of violation, date of conviction, jurisdiction and any disposition, including any fine or sentence imposed and whether terms of disposition have been fully completed.

(13) If applicant is a person doing business under a trade name, a copy of the trade name properly recorded. If the applicant is a corporation, a copy of authority to do business in Georgia, including articles of incorporation, trade name affidavit, if any, last annual report, if any.

(14) At least three character references from individuals who are in no way related to the applicant or individual shareholders, officers or directors of a corporation and who are not or will not benefit financially in any way from the application if the license is granted and who have not been convicted of any crime involving moral character. The Town shall prepare forms consistent with the provisions of this, subsection for the applicant who shall submit all character references on such forms.

(15) Address of the premises to be regulated.

(16) Whether the premises are owned or rented.

(17) A plat by a registered engineer or surveyor, licensed by the State of Georgia showing the location of the proposed premises is not inconsistent with the provisions contained in Section 7.

(18) Each applicant for an adult entertainment establishment license shall be verified and acknowledged under oath to be true and correct by:

(a) If the applicant is an individual, the individual;

(b) If by a partnership, by the manager or general partner;

(c) If a corporation, by the president of the corporation;

(d) If any other organization or association, by the chief administrative official.

(19) An applicant shall furnish all data, information and records requested by the Town, and failure to furnish such data, information and records within 30 days from the date of such request shall automatically serve to dismiss, with prejudice, the application. Applicant(s) by filing any application agree to produce for oral interrogation any person(s) requested by the Town or the Town Attorney who is considered as being important in the ascertainment of the facts relative to such license. The failure to produce person(s) within 30 days after being requested to do so shall result in the automatic dismissal of such application.

(20) For the purpose of this Ordinance, the term "applicant" shall include a person or persons and, in the case of partnership or corporation, all partners, officers, directors, principals, and shareholders of said partnership or corporation.

(21) Each application must be complete in its entirety before being accepted by the Town for filing and processing.

Section 7-1-10. Notice of intent to engage in business.

(1) All applicants for licenses hereunder shall give notice that application has been filed and of the purpose of making such application by publication of an advertisement once a week for two consecutive weeks prior to the date of consideration of the application by the Town Council in the newspaper in which legal advertisements are published.

(2) The first advertisement shall not appear more than 30 days prior to the date of such consideration. The advertisement shall be of type not smaller than ten point capital and lower case and shall be at least a one-inch column. The advertisement must appear on the same day as legal advertisements are regularly published.

(3) The notice shall contain a particular description of the location of the proposed business, the name of the applicant, and if a partnership, the names of the partners, and if a corporation, the names of the officers, and the date, time and place of hearing, and a statement that any objections to the issuance must be made at or prior to the time of hearing, and, if prior to the time of hearing, must be in writing and received by the Mayor on or before the date and time

of hearing.

(4) The applicant shall cause to be placed upon the location of the proposed business a sign or signs stating the following: "The Town of Talking Rock Adult Entertainment License applied for. Any objection to this application must be made at or prior to o'clock m., on the ____ day of

_____ 20____, at _____ (address) which is the date and time of hearing. If prior to he hearing, objections must be in writing". The sign or signs shall be at least 18 inches by 24 inches in size and shall face toward all public streets, sidewalks or other public property which adjoin or adjoins the location so as to be clearly visible by persons using such public area. The sign shall be posted on the property from the date of the first publication of the legal advertisement through the date of the initial consideration by the Town Council.

Section 7-1-11. License fees, penalty for late payment.

(1) The annual license fee shall be set by the Town Council from time to time by resolution. Licenses shall be issued for a period of 12 months only and not for any partial year. No license shall be issued or renewed until and unless all fees, taxes and penalties due the Town are first paid.

(2) In addition to and not in the alternative to any other penalty which may be provided herein, any licensee, person or entity who fails to pay any fee, tax or other payment due to the Town of any kind when due shall pay in addition to such fees, tax or other charge, a separate penalty equal to ten percent of the required fee, tax or other charge, for each period of 30 days, or portion thereof, following the due date, until paid in full, including penalties.

Section 7-1-12. General qualifications of applicant.

No license hereunder shall be granted where the application or the evidence on a hearing shows any of the following conditions to exist:

(1) That the applicant (as broadly defined herein) is of bad moral character or has a bad reputation in the community or does not have sufficient mental capacity to conduct the business for which application is made.

(2) Any person who is not of good moral character.

(3) Any corporation, any of whose directors or shareholders are not of good moral character.

(4) Any partnership or association, any of whose partners or members are not of good moral character.

(5) Any applicant who is not qualified to hold and conduct business according to the Laws of the United States, the State of Georgia or the Town of Talking Rock.

(6) That the applicant has had any license issued under the police powers of any county/ Town or other governmental entity previously suspended or revoked.

(7) That the applicant, as a previous holder of a license to sell alcoholic beverages or for any special Pickens County license, or for any adult entertainment establishment, has violated any law, regulation or ordinance relating to such business within a ten year period immediately preceding the date of application.

(8) That the applicant has a prior conviction as indicated in Section 17 below.

(9) That any applicant, or any corporation or partnership of which the applicant is or was an officer, director, shareholder, general partner or managing agent, is delinquent in payment of any property tax or other tax or license fee payable to the Town of Talking Rock or to the State of Georgia.

(10) Applicant has not paid all required fees and taxes.

Section 7-1-13. Licenses—investigation; report.

All applications required by this Ordinance shall be investigated by the Sheriffs Department, which shall report its' findings and recommendations to the Town Council. No further action shall be taken by the Town of Talking Rock or by any applicant with respect to any application until completion by the Sheriffs Department of its investigation.

The Town shall have up to 45 days to investigate the application and the background of the applicant. Upon completion of the investigation, the Town Council may grant the permit at its next regular meeting if it finds:

(1) The required fee has been paid.

(2) Application conforms in all respects to the provisions of this Chapter.

(3) The applicant has not knowingly made a material misrepresentation in the application.

(4) The applicant has fully cooperated in the investigation of his application.

(5) The applicant, if an individual, or any officers or directors, if the applicant is a corporation, or any of the partners, including limited partners, if the applicant is a partnership, has not been convicted in a court of competent jurisdiction of an offense involving a sex-related crime or drug-related or alcohol-related felony or any crime involving moral turpitude or convicted of an attempt to commit any of the above-mentioned offenses, or convicted in any state of any offense which if committed or attempted in this state, would have been punishable as one or more of the above-mentioned offenses.

(6) Applicant has not had an adult entertainment establishment license or other similar license or permit denied or revoked for cause involving moral character in this Town or any other county or Town in or out of this State prior to the date of application.

(7) The building, structure, equipment or location of such business, as proposed by applicant, would comply with all applicable building and distance laws.

(8) The applicant is at least twenty-five years of age.

(9) That the applicant, his or her employee, agent, partner, director, officer, or manager has not within ten years of date of the application knowingly allowed or permitted any of the specified sexual activities as defined herein to be committed or allowed in or upon the premises where such adult entertainment establishment is to be located, or to be used as a place in which solicitations for the specified sexual activities as defined herein openly occur.

(10) That on the date the business for which a license is required herein commences, and thereafter, there will be a responsible person on the premises to act as manager at all times during which the business is open.

(11) That the proposed premises is not to be located within the distances defined in Section Seven.

(12) That the grant of such License will not cause a violation of this Chapter or any other ordinance or regulation of the Town of Talking Rock, the State of Georgia, or the United States.

(13) If the Town following investigation of the applicant, deems that the applicant does not fulfill the requirements as set forth in this Chapter, it shall notify the Town Clerk of such opinion and within 45 days of the date of the application, provide copies of the investigation report to the Town Clerk. The Town Clerk shall within ten days, notify applicant by certified mail of such denial. Any applicant who is denied a license may appeal such denial to the Town Council by filing a written notice within ten days of the receipt of notice from the Town Clerk. A hearing before the Town Council shall be scheduled within 45 days of such notice.

Section 7-1-14. Citizenship and residence requirements.

(1) Where the applicant is a corporation, any license shall be applied for by and shall be issued to the corporation and either (1) the majority shareholder thereof, or (2) a person employed full time in a managing capacity by the corporation. Each of said persons must be a U.S. citizen or legal alien residing in Pickens County for at least one year prior to application.

(2) Where the applicant is a partnership, any license shall be applied for by and shall be issued to the partnership and either (i) the managing general partner thereof, or (ii) a person employed full time by the partnership in a managing capacity. Each of said persons must be a U.S. citizen or legal alien residing in Pickens County for at least one year prior to application.

(3) Where the applicant is a sole proprietor, any license shall be applied for by and shall be issued to the sole proprietor if he is working full time in a managing capacity on the premises, and, if not, then to the sole proprietor and a person employed full time by the sole proprietor in a managing capacity. Each of said persons must be a U.S. citizen or legal alien residing in Pickens County for at least one year prior to application.

(4) For purposes of this Section, the words "managing capacity" shall mean the President or Chief Executive Officer or managing or general partner of a corporation or partnership, or a person who has responsibility for management of the operations at the location to be licensed and who is a full-time employee of the corporation, partnership, proprietor or other ownership entity.

(5) The licensee shall notify the Town in writing and shall keep said notification current of the name, addresses, and telephone for licensee and the agent of licensee at said address and telephone number for the purpose of receiving communications and notices required under this Ordinance.

Section 7-1-15. Initial consideration of application.

At the time and place that the license is to be considered, the Town Council shall hear relevant evidence concerning the issuance of the license. The applicant must appear in person and may be represented by an attorney. The applicant may also have witnesses appear on his behalf. At the conclusion of the evidence, the Town Council shall approve or deny the applicant's license. The hearing shall occur as part of the agenda at a regularly scheduled board meeting specified in the advertisement or any continuances thereof or at a specially set called hearing.

Section 7-1-16. License not transferable. Right to take in additional partners or shareholders restricted.

(1) No license issued hereunder shall be sold, given, transferred or assigned by any licensee, or by operation of law, to any other person, persons or entities. Any such sale, gift, transfer or assignment, or attempted sale, gift, transfer or assignment, shall be deemed to

constitute a voluntary surrender of the license and such license shall thereafter be null and void; provided, however, if the licensee is a partnership or corporation, and one or more of the partners or shareholders, as the case may be, should die, one or more of the surviving partners or shareholders who were partners or shareholders at the time of the issuance of the license may acquire, by purchase or otherwise, the interest of the deceased partner or shareholder without effecting a surrender or termination of such license, and in such case, the licensee, shall immediately notify the Mayor. An adult entertainment establishment license issued to a corporation shall be deemed terminated and void when either any outstanding stock of the corporation is sold, transferred or assigned after the issuance of a license, or any stock authorized but not issued at the time of the granting of a license hereunder is thereafter issued and sold, transferred or assigned.

(2) No licensee shall change the name or location of the establishment without obtaining a new license.

Section 7-1-17. Issuance to persons with prior convictions.

No original license shall be issued to the applicant or where any individual having an interest either as owner, partner, principal stockholder of applicant, directly or indirectly beneficial shall have been within ten years immediately prior to the filing of said application convicted of any felony or misdemeanor of any state or of the United States or any municipal ordinance except traffic violations, or for whom an outstanding warrant exists on which no service has been perfected. Where the violation is for a misdemeanor, forfeiture of bond, violation of a Town or municipal ordinance, the Town Council, after hearing, may, after investigation, waive same as a disqualification.

Section 7-1-18. Additional standards for issuance, or renewal of license.

With respect to the issuance, renewal or retention of licenses issued hereunder, any rights to retain or have approved an application for a license or renewal, the following standards shall apply in addition to standards stated elsewhere herein:

(1) Where there is evidence that, even though there is compliance with the minimum distance requirements herein, the type and number of schools or number of churches or other facilities in the vicinity causes minors to frequent the immediate area.

(2) Where there is evidence that the location or type of structure would create difficulty in police supervision.

(3) Where there is evidence that there are no licenses granted in the area or where there is evidence that the proposed area already is adequately supplied with such licenses.

(4) Where there is evidence that a license for the location would be detrimental to the property values in the area.

(5) Where there is evidence that the license in that location would be detrimental to traffic conditions or that there is a lack of sufficient parking spaces for automobiles. In addition to compliance with any other parking space requirements of the Town of Talking Rock, a licensee shall have sufficient parking on the premises so as to provide parking for his/her customers and so as to prevent parking on the streets or adjoining property.

(6) Where there is evidence that alcoholic beverages have been sold to intoxicated persons or to a minor.

(7) Where there is evidence that the conducting of the business has violated the law or this code, creates a disturbance, congregation of intoxicated or unruly persons, congregation of minors, allows minors to be on the premises or to purchase, drink or possess alcoholic beverage

on the premises, or that illegal activities have occurred on or in connection with the premises or business, or causes the police to answer complaints or make extra surveillance of the premises.

(8) In addition to the above and in determining whether or not any license applied for shall be granted, the following shall be considered in the public interest and welfare:

- (a) If the applicant is a previous holder of any special license under the any Beer, Wine and Malt Beverage Ordinance, the manner in which he conducted the business thereunder as to the necessity for unusual police observation and inspection in order to prevent the violation of any law, regulation or ordinance relating to such business.
- (b) The location for which the license is sought as to traffic congestion, general character of the neighborhood and the effect such an establishment would have on the adjacent and surrounding property values.
- (c) The number of licenses already granted for similar businesses in the trading area of the place for which the license is sought.
- (d) If applicant's spouse shall not be able to meet qualifications of an applicant, particularly if it appears that the applicant's spouse or another person is using the applicant as a guise, "dummy" or "front" to obtain a license.
- (e) The sentiments of the community in which the proposed business would be operated as far as the same may be known to the Town Council;

A finding that the above conditions exist or a violation of this or other sections of this Ordinance shall be grounds for denial of an original or renewal application and shall authorize the Town Council to suspend, revoke or place on probation, with or without conditions, the license or holder of an existing license.

Section 7-1-19. Town official, spouse and children prohibited from interest in license.

It shall be unlawful for any elected or full-time appointed official or any employee of the Town or employee of an elected official of the Town who receives all or part of his salary from the Town of Talking Rock, or his/her spouse or minor child to have any whole, partial or beneficial interest in any license hereunder.

Section 7-1-20. License to be obtained within two weeks of approval of application.

(1) All licenses must be obtained and fees paid not later than two weeks from the date of the approval of the application; and if not so obtained, the permit granted shall be void.

(2) When a license has been approved and the applicant has deposited with the Town the required fee, the license shall be issued.

Section 7-1-21. Causes for mandatory denial of license.

No license shall be issued to an applicant if within 12 months immediately preceding the filing of an application one or more of the following shall have occurred:

(1) The same applicant for a license or renewal has been rejected for any location, if such rejection was based upon the applicant's failure to meet the terms of the Ordinance applicable to the applicant as opposed to rejection for reasons related to the location itself.

(2) The location has been rejected for any applicant.

(3) The applicant has withdrawn, without permission of the license review board, an application at any time within seven days immediately preceding the time and date set for

the hearing before the Town Council unless at least one year shall have expired from such withdrawal.

(4) When any application for a license to transact any business within the control of the police powers is denied for cause or any license is revoked for cause by the Town of Talking Rock.

(5) The applicant is determined to be in violation of Section 17 hereof.

The one year waiting period will not apply where the applicant shall apply for a new location which has not been rejected within the preceding 12 months, except if the applicant has had an application for another location rejected within the preceding 12 months because of lack of qualifications of the applicant.

Section 7-1-22. Completion of proposed licensed premises.

Where a building where the adult entertainment establishment is to operate is at the time of the application for such license, not in existence or not yet complete or renovated, a license may not be issued for any such location.

Section 7-1-23. Time limit for commencement of business in licensed establishment; forfeiture for nonuse.

(1) All holders of license hereunder must within three months after the issuance of said license open for business unless the time is extended. Failure to open the licensed establishment within the three months period or extended period shall serve as an automatic forfeiture and the cancellation of the license, and no refund of license fees shall be made.

(2) Any holder of a license hereunder who shall begin the operation of the business as authorized in the license, but who shall for a period of three consecutive months thereafter cease to operate the business as authorized in the license, shall upon completion of said three months' period automatically forfeit his/her license, which license shall, by virtue of said failure to operate, be canceled without the necessity of any further action of the Town.

Section 7-1-24. Annual renewal required.

(1) All licenses hereunder shall be issued for a period of one year from the date of issuance. All licensees hereunder shall be required to renew their licenses annually on forms prescribed by the Town.

(2) An application for renewal shall meet and qualify under all requirements of this Ordinance for the granting of a new license.

Section 7-1-25. Suspension, revocation and probation of license.

(1) No license issued hereunder shall be suspended, revoked or placed on probation except for due cause as herein defined, and after a hearing before the Town Council following written notice to the holder of such license of the time, place, and purpose of such hearing addressed to licensee at the last address which licensee provided to the Mayor or to the address of the premises and a statement of the charge upon which such hearing shall be held, except as hereinafter provided. Ten days notice shall be deemed reasonable, but shorter or longer periods of notice shall be authorized as the circumstances may justify.

(2) "Due cause" for suspension, revocation, or probation of such license shall consist of the violating of any Local, State, or Federal Laws, regulations or ordinances regulating such business or when the operation of the business has become undesirable, or for any reason which

would authorize the refusal to issue or renew such license.

(3) In all hearings pursuant to this Section, the following procedures shall prevail, and the proceeding shall be as informal as compatible with justice:

(a) Formal rules of evidence do not apply to the hearing.

(b) The Mayor shall read or cause to be read the charges and specifications against the licensee. He/she shall then read or cause to be read any response filed by the licensee.

(c) The Town Council shall hear the evidence upon the charges and specifications as filed against the licensee and shall not consider any additional evidence beyond the scope of the charges, and may exclude evidence which is purely cumulative.

(d) The order of proof shall be as follows: The Town representative shall present his/her evidence in support of the charges; the licensee shall then present his/her evidence. Evidence of each party may be supported by submission of pertinent documents. Each party shall be allowed to present pertinent rebuttal evidence.

(e) The licensee and Town may be represented by counsel, and may present, examine and cross-examine witnesses. Additionally, the Town Council may interrogate all parties and witnesses to obtain necessary information.

(4) The Mayor may suspend a business license or give ten days notice that such license is subject to suspension when there is cause to believe that grounds exist for revoking the license. This action shall be reviewed at the next regular meeting of the Town Council, or at the request of the license holder, a special meeting of the Town Council may be called within ten days after such request is filed with the Mayor to affirm or refuse the suspension after the hearing of the evidence. An accusation by a law enforcement officer shall be deemed due and sufficient cause for suspension. A license shall not be revoked except upon action by the Town Council.

(5) The Mayor or Sheriff of Pickens County may suspend a license or give ten days' notice that such license is subject to suspension when there is no cause to believe that grounds exist for revoking the license. Such action by the Mayor or Sheriff of Pickens County shall be reported, in writing, to the Town Council at the next regular or called meeting of the Town Council. If the Town Council affirms the decision of the Mayor or Sheriff of Pickens, then said license may be revoked, suspended or placed on probation. A signed accusation by an officer of the law shall be deemed sufficient cause.

Section 7-1-26. Removal of signs after revocation or during suspension.

When any license is revoked, all signs indicating that such business is conducted on the premises shall be removed from the premises, both outside and inside, during the period of revocation or suspension.

Section 7-1-27. False information in applications for license or work permits.

Any material omission, or untrue or misleading information contained in or left out of an original or renewal application for any license or permit issued pursuant to this Ordinance shall be unlawful, shall be cause for a denial thereof, and shall be punishable as a violation of the Ordinance hereunder. If any such license or permit has previously been granted under the above circumstances, such shall constitute cause for the revocation of same.

Section 7-1-28. Certain provisions applying to erotic dance and entertainment establishments.

The following provisions, in addition to all others, shall apply to erotic dance and entertainment establishments:

- (1) No later than March 1 of each year, the licensee shall file a verified report with the Mayor showing the licensee's gross receipts and all amounts paid to dancers or entertainers for the period preceding the twelve month period.
- (2) Licensee shall maintain and retain for a period of two years the names, addresses, and ages of all persons employed as dancers or entertainers.
- (3) All dancers and entertainers, dancing and entertainment, shall occur on a platform intended for that purpose which is raised at least two feet from the next-highest level of the remainder of the floor.
- (4) No dancing or entertainers shall occur closer than ten feet to any patron.
- (5) No dancer or entertainer shall fondle or caress any patron and no patron shall fondle or caress any dancer.
- (6) No patron shall directly pay or give any gratuity to any dancer or entertainer.
- (7) No dancer or entertainer shall solicit any pay or gratuity from any patron.

Section 7-1-29. Violations.

Any person violating the provisions of this Ordinance shall be punishable by a fine not to exceed \$ 1000.00 or imprisonment for 90 days, or both.

Violations shall be considered due cause for suspension or revocation of any license.

The violation of the provisions of this Ordinance by any person may be enjoined by instituting appropriate proceedings for injunction in any court of competent jurisdiction. Such actions may be maintained notwithstanding that other adequate remedies at law exist. Such actions may be instituted in the name of the Town of Talking Rock.

The violation of the provisions of this ordinance may be abated as a nuisance.

Section 7-1-30. Zones where establishment permitted.

No adult entertainment establishment shall be located, and no adult entertainment business may be conducted, on any premises, and no license for any adult entertainment establishment may be issued for any premises or location, unless the location has been approved.

Section 7-1-31. Provisions relating to premises.

- (1) No adult entertainment establishment shall be conducted, operated or licensed if the adult entertainment activity on the premises is visible from the exterior of the premises.
- (2) No booth, screen, partition or other obstruction shall be permitted within the interior of any such establishment so as to prevent a clear view throughout the premises, except a separate office, kitchens, rest rooms, or other areas not frequented by patrons.
- (3) The premises shall be kept clean and in proper sanitary condition. The premises shall be cleaned at least once daily and more frequently when necessary. This activity shall be supervised by the person in charge of the premises. There shall be provided adequate facilities, equipment and supplies on the premises to meet this requirement, and adequate ventilation and illumination shall be provided to permit thorough, complete cleaning of the entire licensed

premises. Trash and garbage shall not be permitted to accumulate or to become a nuisance on or in the immediate vicinity of the licensed premises but shall be disposed of daily or more frequently if necessary to prevent accumulation. The licensee or his/ her designee shall make sanitary inspections of the premises at least every and maintain in a readily accessible place a schedule for maintaining the sanitation of the premises.

(4) No premises for an adult entertainment establishment shall have any interior connections or doors with any other place of business or with any place where gambling or other illegal activity is conducted or where persons congregate for the illegal consumption, sale, possession, barter, manufacture, exchange, purchase, dispensation, delivery or other dealing in of alcoholic beverages or for any immoral purposes.

Section 7-1-32. License and Name of licensee and license number to be displayed.

Each license shall have printed on the front window of the licensed premises the inscription, "The Town of Talking Rock License No _____, _____ Licensee" in uniform letters not less than three inches in height.

The license itself shall be conspicuously displayed at all times within the premises.

Section 7-1-33. Premises to be lighted.

The premises shall be fully lighted both inside and outside, except during hours when the establishment is not open for business. Interior lighting shall be no less than 3.5 foot candles per square foot.

Section 7-1-34. Unlawful operation declared nuisance.

Any adult entertainment establishment operated, conducted or maintained contrary to the provision of this Ordinance shall be and the same is hereby declared to be unlawful and a public nuisance. The Town may, in addition to, or in lieu of all other remedies, commence an action or actions, proceeding or proceedings for abatement, removal or enjoinder thereof, in manner provided by law.

No adult entertainment establishment shall be conducted on any premises which does not comply with all building and fire codes and other ordinances and laws of the Town of Talking Rock or Pickens County and the State of Georgia.

Section 7-1-35. Severability and conflict.

Should any section or provision of this Ordinance be declared by a court of competent jurisdiction to be invalid or unconstitutional, such decision shall not affect the validity of the Ordinance as a whole nor any part thereof other than the part so declared to be invalid or unconstitutional.

Should any section or provision of this Ordinance be in conflict with any other ordinance, rule, regulation or law, then the more restrictive ordinance, rule, regulation, provision, requirement, or law shall prevail.

Section 7-1-36. Effective Date.

This Ordinance shall become effective immediately upon its adoption.

IN WITNESS WHEREOF of the undersigned have hereunto set their hands and authorized the affixation of the seal of the Town of Talking Rock, Georgia this ____ day of _____, 2006.

THE TOWN COUNCIL OF THE TOWN OF TALKING ROCK, GEORGIA

By: _____, Council Member

By: _____, Council Member

By: _____, Council Member

By: _____, Council Member

By: _____, Council Member

APPROVED BY THE MAYOR OF THE TOWN OF TALKING ROCK, GEORGIA

Cheryl Samples, Mayor
Sams

Attest: I, _____, Clerk of the Town of Talking Rock, do hereby certify that the foregoing pages of typewritten matter constitute a true and correct copy of that certain Ordinance adopted by the said Town Council of the Town of Talking Rock on the ____ day of _____, 2006, approving and authorizing An Ordinance to Regulate Adult Entertainment Establishments in the Town of Talking Rock, Georgia, the original of said Ordinance being duly recorded in the Minute Book which is in my custody and control.

WITNESS my hand and the official seal of the Town of Talking Rock this the _____ day of _____, 2006.

(TOWN SEAL)

Town Clerk, The Town of Talking Rock,
Georgia