

THE CODE OF THE TOWN OF TALLULAH FALLS, GEORGIA

Published in 2017 by Order of the Town Council

municode

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PREFACE

This Code constitutes a codification of the general and permanent ordinances of the Town of Tallulah Falls, Georgia.

Source materials used in the preparation of the Code were ordinances and other material furnished by the town. The source of each section derived from an ordinance is included in the history note appearing in parentheses at the end thereof. The absence of such a note indicates that the section is derived from other material furnished by the town.

The chapters of the Code have been conveniently arranged in alphabetical order, and the various sections within each chapter have been catchlined to facilitate usage. Notes which tie related sections of the Code together and which refer to relevant state law have been included. A table listing the state law citations and setting forth their location within the Code is included at the back of this Code.

Chapter and Section Numbering System

The chapter and section numbering system used in this Code is the same system used in many state and local government codes. Each section number consists of two parts separated by a dash. The figure before the dash refers to the chapter number, and the figure after the dash refers to the position of the section within the chapter. Thus, the second section of chapter 1 is numbered 1-2, and the first section of chapter 6 is 6-1. Under this system, each section is identified with its chapter, and at the same time new sections can be inserted in their proper place by using the decimal system for amendments. For example, if new material consisting of one section that would logically come between sections 6-1 and 6-2 is desired to be added, such new section would be numbered 6-1.5. New articles and new divisions may be included in the same way or, in the case of articles, may be placed at the end of the chapter embracing the subject, and, in the case of divisions, may be placed at the end of the article embracing the subject. The next successive number shall be assigned to the new article or division. New chapters may be included by using one of the reserved chapter numbers. Care should be taken that the alphabetical arrangement of chapters is maintained when including new chapters.

Page Numbering System

The page numbering system used in this Code is a prefix system. The letters to the left of the colon are an abbreviation which represents a certain portion of the volume. The number to the right of the colon represents the number of the page in that portion. In the case of a chapter of the Code, the number to the left of the colon indicates the number of the chapter. In the case of an appendix to the Code, the letter immediately to the left of the colon indicates the letter of the appendix. The following are typical parts of codes of ordinances, which may or may not appear in this Code at this time, and their corresponding prefixes:

CHARTER	CHT:1
CHARTER COMPARATIVE TABLE	CHTCT:1
RELATED LAWS COMPARATIVE TABLE	RLCT:1
CODE	CD1:1
CODE APPENDIX	CDA:1
CODE COMPARATIVE TABLES	CCT:1
STATE LAW REFERENCE TABLE	SLT:1

CHARTER INDEX	CHTi:1
CODE INDEX	CDi:1

Indexes

The indexes have been prepared with the greatest of care. Each particular item has been placed under several headings, some of which are couched in lay phraseology, others in legal terminology, and still others in language generally used by local government officials and employees. There are numerous cross references within the indexes themselves which stand as guideposts to direct the user to the particular item in which the user is interested.

Looseleaf Supplements

A special feature of this publication is the looseleaf system of binding and supplemental servicing of the publication. With this system, the publication will be kept up to date. Subsequent amendatory legislation will be properly edited, and the affected page or pages will be reprinted. These new pages will be distributed to holders of copies of the publication, with instructions for the manner of inserting the new pages and deleting the obsolete pages.

Keeping this publication up to date at all times will depend largely upon the holder of the publication. As revised pages are received, it will then become the responsibility of the holder to have the amendments inserted according to the attached instructions. It is strongly recommended by the publisher that all such amendments be inserted immediately upon receipt to avoid misplacing them and, in addition, that all deleted pages be saved and filed for historical reference purposes.

Acknowledgments

This publication was under the direct supervision of Roger D. Merriam, Senior Code Attorney, and Amanda Heath, Editor, of the Municipal Code Corporation, Tallahassee, Florida. Credit is gratefully given to the other members of the publisher's staff for their sincere interest and able assistance throughout the project.

The publisher is most grateful to Ms. Patti Polk, Town Clerk, and Mr. Allyn Stockton, Town Attorney, for their cooperation and assistance during the progress of the work on this publication. It is hoped that their efforts and those of the publisher have resulted in a Code of Ordinances which will make the active law of the town readily accessible to all citizens and which will be a valuable tool in the day-to-day administration of the town's affairs.

Copyright

All editorial enhancements of this Code are copyrighted by Municipal Code Corporation and the Town of Tallulah Falls, Georgia. Editorial enhancements include, but are not limited to: organization; table of contents; section catchlines; prechapter section analyses; editor's notes; cross references; state law references; numbering system; code comparative table; state law reference table; and index. Such material may not be used or reproduced for commercial purposes without the express written consent of Municipal Code Corporation and the Town of Tallulah Falls, Georgia.

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PART I - CHARTER¹¹

AN ACT

To amend, revise, consolidate, and supersede the Acts incorporating the Town of Tallulah Falls, in Habersham and Rabun counties; to create and establish a new Charter and municipal government for said town; to declare and consolidate the rights and powers of said corporation; to repeal a specific Act; to repeal conflicting laws; and for other purposes.

WHEREAS, the Town of Tallulah Falls, in Habersham and Rabun counties was incorporated by an Act of the General Assembly of Georgia, approved October 7, 1885 (Ga. L. 1885, p. 404) and reincorporated by an Act approved November 12, 1888 (Ga. L. 1888-89, p. 1003), which Act has been several times amended; and

WHEREAS, it is highly desirable and necessary, as well as in the interests of the people of the Town of Tallulah Falls, that said Acts be amended, revised, updated, and superseded.

Be it enacted by the General Assembly of Georgia:

Footnotes:

--- (1) ---

Editor's note— Printed herein is the Charter of the town, being 1984 Ga. Laws (Act No. 585), page 3547. Amendments are indicated by parenthetical history notes following amended sections. The absence of a history note indicates that the provision remains unchanged from the original act. Obvious misspellings have been corrected without notation. For stylistic purposes, a uniform system of headings, catchlines and capitalization has been used. Additions made for clarity are indicated by brackets.

ARTICLE I. - CREATION

Sec. 1.10. - Name.

This town and the inhabitants thereof, are constituted and declared a body politic and corporate under the name and style of Town of Tallulah Falls, Georgia, and by that name shall have perpetual succession.

Sec. 1.11. - Corporate boundaries.

The corporate boundaries of the Town of Tallulah Falls are more fully described in Appendix A attached to and made a part of this Act.

Sec. 1.12. - Powers and construction.

- (a) This town shall have all powers possible for a town to have under the present or future constitution and laws of this state as fully and completely as though they were specifically enumerated in this Charter.
- (b) The powers of this town shall be construed liberally in favor of the town. The specific mention or failure to mention particular powers shall not be construed as limiting in any way the power of this town.

Sec. 1.13. - Exercise of powers.

All powers, functions, rights, privileges, and immunities of the town, its officers, agencies, or employees shall be carried into execution as provided by this Charter. If this Charter makes no provisions such shall be carried into execution as provided by ordinance or as provided by pertinent laws of the State of Georgia.

Sec. 1.14. - Powers.

The Town of Tallulah Falls shall have the power to extend its water and sewerage systems outside the corporate limits of the city and provide and sell such water and sewerage services inside and outside the corporate limits of the city as provided by ordinance.

(1990 Ga. Laws (Act No. 934), page 4384, § 1)

ARTICLE II. - TOWN COUNCIL

Sec. 2.10. - Town council creation; composition; number; election.

The legislative authority of the government of this town, except as otherwise specifically provided in this Charter, shall be vested in a town council to be composed of a mayor and four council members. The mayor and council members shall be elected in the manner provided by article V of this Charter.

Sec. 2.11. - Town council terms and qualifications for office.

The members of the town council shall serve for terms of four years and until their respective successors are elected and qualified. No person shall be eligible to serve as mayor or town council member unless he shall have been a resident of the town six months immediately prior to the date of the election of mayor or members of the town council; each shall continue to reside therein during his period of service and shall be registered and qualified to vote in municipal elections of this town.

(1990 Ga. Laws (Act No. 934), page 4384, § 2)

Sec. 2.12. - Vacancy; filling of vacancies.

- (a) The office of mayor or council member shall become vacant upon the incumbent's death, resignation, forfeiture of office, or removal from office in any manner authorized by this Charter or the general laws of the State of Georgia.
- (b) A vacancy in the office of mayor or council member shall be filled for the remainder of the unexpired term, if any, as provided for in article V.

Sec. 2.13. - Compensation and expenses.

The mayor and council members shall receive compensation for their services in an amount set by ordinance adopted as provided by general law. The mayor and council members shall be entitled to receive their actual and necessary expenses incurred in the performance of their duties of office.

Sec. 2.14. - Holding other office; voting when personally interested.

- (a) Except as authorized by general state law, the mayor or any council member shall not hold any other town office or town employment during the term for which he was elected.
- (b) Neither the mayor nor any member of the town council shall vote upon or sign or veto any question in which he is personally interested.

Sec. 2.15. - General power and authority of the town council.

Except as otherwise provided by this Charter, the town council shall be vested with all the powers of government of this town as provided by article I.

Sec. 2.16. - Regular and special meetings.

- (a) The town council shall hold regular meetings at such times and places as prescribed by Charter.

- (b) Special meetings of the town council may be held on call of the mayor or three members of the town council. Notice of such special meetings shall be served on all other members personally, or by telephone personally, at least 48 hours in advance of the meeting. Such notice to council members shall not be required if the mayor and all council members are present when the special meeting is called. Such notice of any special meeting may be waived by a council member in writing before or after such a meeting, and attendance at the meeting shall also constitute a waiver of notice of any business transacted in such council member's presence. Only the business stated in the call may be transacted at the special meeting.
- (c) All meetings of the town council shall be public to the extent required by general state law and notice to the public of special meetings shall be made as fully as is reasonably possible five days prior to such meetings.

(1996 Ga. Laws (Act No. 992), page 4463, § 1; 2007 Ga. Laws (Act No. 66), page 3533, § 1)

Sec. 2.17. - Quorum; voting.

The mayor or mayor pro tem and three council members shall constitute a quorum and shall be authorized to transact business of the council. Voting on the adoption of ordinances shall be taken by voice vote and the ayes and nays shall be recorded in the journal. Any member of the council shall have the right to request a roll-call vote. The affirmative vote of three council members, or two council members and the mayor in case of a deadlock or tie, shall be required for the adoption of any ordinance, resolution, or motion except as otherwise provided in this Charter.

(1996 Ga. Laws (Act No. 992), page 4463, § 2; 2007 Ga. Laws (Act No. 66), page 3533, § 2)

Sec. 2.18. - Action requiring an ordinance.

In addition to other acts required by general state law or by specific provisions of this Charter to be done by ordinance, acts of the town council which have the force and effect of law shall be done by ordinance.

Sec. 2.19. - Codes of technical regulations.

The town council may adopt any standard code of technical regulations by reference thereto in an adopting ordinance. A copy of each adopted code of technical regulations, as well as the adopting ordinance, shall be authenticated and recorded by the clerk pursuant to section 2.20.

Sec. 2.20. - Signing; authenticating; recording; codification; printing.

- (a) The clerk shall by his signature authenticate and record in full a properly indexed book kept for that purpose all ordinances adopted by the council.
- (b) The town council shall provide for the preparation of a general codification of all of the ordinances of the town having the force and effect of law. The general codification shall be adopted by the town council by ordinance and shall be published promptly, together with all amendments thereto and such codes of technical regulations and other rules and regulations as the town council may specify. This compilation shall be known and cited officially as "The Code of the Town of Tallulah Falls, Georgia."
- (c) The town council shall make such further arrangements as deemed desirable with respect to reproduction and distribution of any current code or additions to codes of technical regulations and other rules and regulations included in the code.

Sec. 2.21. - Election of mayor; compensation.

The mayor shall be elected and serve for a term of two years and until his successor is elected and qualified. He shall be a qualified elector of this town and shall have been a resident of this town six months immediately preceding his election. He shall continue to reside in this town during the period of his service. The compensation of the mayor shall be established in the same manner as for council members.

Editor's note— The term of office of the mayor is now four years. See section 5.10.

Sec. 2.22. - Mayor pro tem.

The town council shall elect by majority vote from among its members a mayor pro tem who shall assume the duties and powers of the mayor upon declaration by the town council of the mayor's disability or absence.

Sec. 2.23. - Powers and duties of the mayor.

The mayor shall be the chief executive of this town. He shall possess all of the executive and administrative powers granted to the town under the constitution and laws of the State of Georgia, and all the executive and administrative powers in this Charter. It shall be the duty of the mayor to:

- (1) See that all laws and ordinances of the town are faithfully executed;
- (2) Exercise supervision over all executive and administrative work of the town and provide for the coordination of administrative activities;
- (3) Be the official head and spokesman for the town for service of process and ceremonial purposes;
- (4) Sign as a matter of course all written contracts, ordinances, and other instruments executed by the town which by law are required to be in writing;
- (5) Vote as a member of the town council only at such times as are necessary to break a tie or deadlock of the council;
- (6) Prepare and submit to the town council a recommended annual operating budget and recommended capital budget; and
- (7) Fulfill such other executive and administrative duties as the town council shall by ordinance establish.

ARTICLE III. - ADMINISTRATIVE AFFAIRS

Sec. 3.10. - Boards, commissions, and authorities.

- (a) The town council shall create by ordinance such boards, commissions, and authorities to fulfill any investigative, quasi-judicial, or quasi-legislative function the town council deems necessary and shall by ordinance establish the composition, period of existence, duties, and powers thereof.
- (b) All members of boards, commissions, and authorities of the town shall be appointed by the town council for such terms of office and in such manner as shall be provided by ordinance, except where other appointing authority, term of office, or manner of appointment is prescribed by this Charter or general state law.
- (c) The town council, by ordinance, may provide for the compensation and reimbursement for actual and necessary expenses of the members of any board, commission, or authority.
- (d) No member of any board, commission, or authority shall hold any elective office in the town.
- (e) Any vacancy on a board, commission, or authority of the town shall be filled for the unexpired term in the manner provided by ordinance adopted by town council.

- (f) Except as otherwise provided by this Charter, by ordinance, or by general state law, each board, commission, or authority of the town shall elect one of its members as chairman and one member as vice-chairman and may elect as its secretary one of its own members or may appoint as secretary an employee of the town. Each board, commission, or authority of the town government may establish such bylaws, rules, and regulations not inconsistent with this Charter, ordinances of the town, or general state law as it deems appropriate and necessary for the fulfillment of its duties or the conduct of its affairs, copies of which shall be filed with the clerk of the town.

ARTICLE IV. - JUDICIAL BRANCH

Sec. 4.10. - Creation; name.

There shall be a court to be known as the municipal court of the Town of Tallulah Falls.

Sec. 4.11. - Judge.

- (a) The municipal court shall be presided over by a chief judge and such part-time, full-time, or stand-by associate judges as shall be provided by ordinance.
- (b) No person shall be qualified or eligible to serve as a judge of the municipal court unless he shall have attained the age of 21 years. All judges shall be appointed by the town council.
- (c) Compensation of the judges shall be fixed by ordinance.
- (d) Judges may be removed for cause by a vote of three members of the town council.
- (e) Before entering on duties of his office, each judge shall take an oath given by the mayor that he will honestly and faithfully discharge the duties of his office to the best of his ability without fear, favor, or partiality. The oath shall be entered upon the minutes of the town council.

(1990 Ga. Laws (Act No. 934), page 4384, § 3)

Sec. 4.12. - Convening.

The municipal court shall be convened at regular intervals as designated by ordinance or as provided _____ by _____ ordinance.

Sec. 4.13. - Jurisdiction; powers.

- (a) The municipal court shall try and punish violations of all town ordinances.
- (b) The municipal court shall have authority to punish those in its presence for contempt, provided that such punishment shall not exceed \$25.00 or 24 hours in jail.
- (c) The municipal court may fix punishment for offenses within its jurisdiction not exceeding a fine of \$500.00 or imprisonment for not more than 60 days or both; but the punishment imposed shall not exceed any maximum specified in the ordinance or statute governing the particular offense. In any case, however, where a general state law authorizes the municipal court to impose greater punishment, such general state law shall control.
- (d) The municipal court shall have authority to establish a schedule of fees to defray the cost of operation and shall be entitled to reimbursement of the costs of meals, transportation, and caretaking of prisoners bound over to superior courts for violations of state law.
- (e) The municipal court shall have authority to establish bail and recognizances to ensure the presence of those charged with violations before said court and shall have discretionary authority to accept cash or personal or real property as surety for the appearance of persons charged with violations. Whenever any person shall give bail for his appearance and shall fail to appear at the time fixed for trial, his bond shall be forfeited by the judge presiding at such time, and an execution issued thereon

by serving the defendant and his sureties with a rule nisi at least two days before a hearing on the rule nisi. In the event that cash or property is accepted in lieu of bond for security for the appearance of a defendant at trial; and if such defendant fails to appear at the time and place fixed for trial, the cash so deposited shall be on order of the judge declared forfeited to the town, or the property so deposited shall have a lien against it for the value forfeited, which lien shall be enforceable in the same manner and to the same extent as a lien for town property taxes.

- (f) The municipal court shall have the authority to bind prisoners over to the appropriate court when it appears by probable cause that a state law has been violated.
- (g) The municipal court shall have the same authority as superior courts to compel the production of evidence in the possession of any party; to enforce obedience to its orders, judgments, and sentences; and to administer such oaths as are necessary.
- (h) The municipal court may compel the presence of all parties necessary to a proper disposal of each case by the issuance of summons, subpoena, and warrants which may be served as executed by any officer as authorized by this charge or by general state law.
- (i) The municipal court is specifically vested with all of the jurisdiction and powers throughout the entire area of this town granted by general state laws to mayors', recorders', and police courts, and particularly by such laws as authorize the abatement of nuisances and prosecution of traffic violations.

(1984 Ga. Laws (Act No. 1062), page 4690, § 1)

Sec. 4.14. - Appeal.

The right of appeal and any bond as may be required shall be had by writ of certiorari to the superior courts as provided by general state law.

Sec. 4.15. - Rules for court.

With the approval of the town council, the judge shall have full power and authority to make reasonable rules and regulations necessary and proper to secure the efficient and successful administration of the municipal court; provided, however, that the town council may adopt in part or in toto the rules and regulations for procedure in the superior court under the general laws of the State of Georgia. The rules and regulations made or adopted shall be filed with the town clerk, shall be available for public inspection, and, upon request, a copy shall be furnished to all defendants in municipal court proceedings at least 48 hours prior to said proceedings.

ARTICLE V. - ELECTIONS

Sec. 5.10. - Regular elections.

- (a) The mayor and council members in office on the effective date of this Act shall remain in office until the expiration of their terms and until their successors are elected and qualified.
- (b) Successors to those two council members whose terms expire December 31, 1991, shall be elected on the Tuesday next following the first Monday in November of 1991 and quadrennially thereafter for a term of four years and until their successors are elected and qualified.
- (c) Successors to the mayor and those two council members whose terms expire December 31, 1993, shall be elected on the Tuesday next following the first Monday in November of 1993 and quadrennially thereafter for a term of four years and until their successors are elected and qualified.
- (d) All municipal terms of office shall commence on January 1 immediately following the election for such position.

(1990 Ga. Laws (Act No. 934), page 4384, § 4)

[Sec. 5.11. - Reserved.]

Sec. 5.12. - Special elections; vacancies.

In the event that vacancies occur in one or more elected office of the town for any cause whatsoever, the mayor or the council, or those remaining, or, if none, any three or more citizens and voters of the town shall order a special election to fill the balance of the unexpired term of such office; provided, however, if such vacancy occurs within 180 days of the expiration of the term of office of the mayor or any council member, such vacancy in office shall be filled by appointment by the remaining members of the council. Both special elections and qualifications of candidates therefor shall conform to the applicable provisions of this Charter and the Georgia Municipal Election Code, Chapter 3 of Title 21 of the O.C.G.A., as now or hereafter amended [Repealed—see now O.C.G.A. § 21-2-1 et seq.].

Sec. 5.13. - Grounds for removal.

The mayor or any council member shall be subject to removal from office for any one or more of the following causes:

- (1) Misfeasance or malfeasance in office;
- (2) Conviction of a crime involving moral turpitude;
- (3) Failure at any time to possess any of the qualifications of office as provided by this Charter or by law;
- (4) Willful violation of any express prohibition of this Charter;
- (5) Abandonment of office or neglect to perform the duties thereof; or
- (6) Failure for any cause to perform the duties of office as required by this Charter or by law.

Sec. 5.14. - Procedure for removal.

Removal of an elected officer from office may be accomplished by one of the following methods:

- (1) By action of two-thirds' vote of the entire membership of the council. In the event an elected officer is sought to be removed by the action of the council, such officer shall be entitled to a written notice specifying the ground for removal and to a public hearing which shall be held not less than ten days from the service of such written notice. Any elected officer sought to be removed from office as herein provided shall have the right of appeal from the decision of the council to the Superior Court of Habersham or Rabun County. Such appeal shall be governed by the same rules as govern appeals to the superior court from the probate court;
- (2) By information filed in the Superior Court of Habersham County or in the Superior Court of Rabun County as provided by law; or
- (3) By recall as now or hereafter provided by Georgia law.

ARTICLE VI. - FINANCE

Sec. 6.10. - Property tax.

The town council may assess, levy, and collect an ad valorem tax on all real and personal property within the corporate limits of the town that is subject to such taxation by the state and county. This tax is for the purpose of raising revenues to defray the costs of operating the town government, providing governmental services, repayment of principal and interest on general obligations, and any other public purposes as determined by the town council in its discretion.

Sec. 6.11. - Millage rate; due dates; payment methods.

The town council, by ordinance, shall establish a millage rate for the town property tax, a due date, and in what length of time these taxes must be paid. The town council, by ordinance, may provide for the payment of these taxes by installments or in one lump sum, as well as authorize the voluntary payment of taxes prior to the time when due.

Sec. 6.12. - Occupation and business taxes.

The town council by ordinance shall have the power to levy such occupation or business taxes as are not denied by general state law. Such taxes may be levied on both individuals and corporations who transact business in this town or who practice or offer to practice any profession or calling therein to the extent such persons have a constitutionally sufficient nexus to this town to be so taxed. The town council may classify businesses, occupations, professions, or callings for the purpose of such taxation in any way which may be lawful and compel the payment of such taxes as provided in section 6.18.

Sec. 6.13. - Licenses; permits; fees.

The town council by ordinance shall have the power to require any individuals or corporations who transact business in this town or who practice or offer to practice any profession or calling therein to obtain a license or permit for such activity from the town and pay a reasonable fee for such license or permit where such activities are not now regulated by general state law in such a way as to preclude town regulation. Such fees may reflect the total cost to the town of regulating the activity and, if unpaid, shall be collected as provided in section 6.18. The town council by ordinance may establish reasonable requirements for obtaining or keeping such licenses as the public health, safety, and welfare necessitate.

Sec. 6.14. - Franchises.

The town council shall have the power to grant franchises for the use of this town's streets and alleys, for the purpose of railroads, street railways, telephone companies, electric companies, cable television, gas companies, transportation companies, and other similar organizations. The town council shall determine the duration, provisions, terms, whether the same shall be exclusive or nonexclusive, and the consideration for such franchises; provided, however, no franchise shall be granted for a period in excess of 35 years and no franchise shall be granted unless the town receives just and adequate compensation therefor. The town council shall provide for the registration of all franchises with the town clerk in a registration book to be kept by him. The town council may provide by ordinance for the registration within a reasonable time of all franchises previously granted.

Sec. 6.15. - Service charges.

The town council by ordinance shall have the power to assess and collect fees, charges, and tolls for sewer, sanitary, health, and water services or any other services rendered within and without the corporate limits of the town for the total cost to the town of providing such services. If unpaid, such charges shall be collected as provided in section 6.18.

Sec. 6.16. - Special assessments.

The town council by ordinance shall have the power to assess and collect the cost of constructing, reconstructing, widening, or improving any public way, street, sidewalk, curbing, gutters, sewers, or other utility mains and appurtenances from the abutting property owners under such terms and conditions as are reasonable. If unpaid, such charges shall be collected as provided in section 6.18.

Sec. 6.17. - Construction; other taxes.

This town shall be empowered to levy any other tax allowed now or hereafter by state law; and the specific mention of any right, power, or authority in this article shall not be construed as limiting in any way the general powers of this town to govern its local affairs.

Sec. 6.18. - Collection of delinquent taxes and fees.

The town council by ordinance may provide generally for the collection of delinquent taxes, fees, or other revenue due the town under sections 6.10 through 6.17 by whatever reasonable means as are not precluded by general state law. This shall include providing for the dates when the taxes or fees are due, late penalties or interest, issuance and execution of fieri facias, creation and priority of liens, making delinquent taxes and fees personal debts of the persons required to pay the taxes or fees imposed, revoking town licenses for failure to pay any town taxes or fees, allowing exceptions for hardship, and providing for the assignment or transfer of tax executions.

Sec. 6.19. - General obligation bonds.

The town council shall have the power to issue bonds for the purpose of raising revenue to carry out any project, program, or venture authorized under this Charter or the general laws of the state. Such bonding authority shall be exercised in accordance with the laws governing bond issuances by municipalities in effect at the time said issue is undertaken.

Sec. 6.20. - Revenue bonds.

Revenue bonds may be issued by the town council as state law now or hereafter provides. Such bonds are to be paid out of any revenue produced by the project, program, or venture for which they were issued.

Sec. 6.21. - Sale of town property.

- (a) The town council may sell and convey any real or personal property owned or held by the town for governmental or other purposes as provided by Code section 36-37-6 of the O.C.G.A. [O.C.G.A. § 36-37-6] or any other general state law as now or later amended.
- (b) The town council may quitclaim any rights it may have in property not needed for public purposes upon report by the mayor and adoption of a resolution, both finding that the property is not needed for public or other purposes and that the interest of the town has no readily ascertainable monetary value.
- (c) Whenever in opening, extending, or widening any street, avenue, alley, or public place of the town, a small parcel or tract of land is cut off or separated by such work from a larger tract or boundary of land owned by the town, the town council may authorize the mayor to execute and deliver in the name of the town a deed conveying said cut-off or separated parcel or tract of land to an abutting or adjoining property owner or owners in exchange for rights-of-way of said street, avenue, alley, or public place or in settlement of any alleged damages sustained by said abutting or adjoining property owner. All deeds and conveyances heretofore and hereafter so executed and delivered shall convey all title and interest in such property, notwithstanding the fact that no advertisement was or is hereafter made.

ARTICLE VII. - GENERAL PROVISIONS

Sec. 7.10. - Eminent domain.

The town council is empowered to acquire, construct, operate, and maintain public ways, parks, public grounds, cemeteries, markets, market houses, public buildings, libraries, sewers, drains, sewage treatment, waterworks, electrical systems, gas systems, airports, hospitals, and charitable, educational, recreational, sport, curative, corrective, detentional, penal and medical institutions, agencies and facilities, and any other public improvements inside or outside the town, and to regulate the use thereof, and for such purposes, property may be taken under Title 22 of the O.C.G.A. [O.C.G.A. title 22], subject to such amendments as shall be enacted, or any other Georgia law applicable now or provided in the future.

Sec. 7.11. - Official bonds.

The officers and employees of this town, both elective and appointive, shall execute such official bonds in such amounts and upon such terms and conditions as the town council shall from time to time require by ordinance or as may be provided by state law.

Sec. 7.12. - Prior ordinances.

All ordinances, bylaws, rules, and regulations now in force in the town not inconsistent with this Charter are declared valid and of full effect and force until amended or repealed by the town council.

Sec. 7.13. - Pending matters.

Except as specifically provided otherwise by this Charter, all rights, claims, actions, orders, contracts, and legal or administrative proceedings shall continue and any such ongoing work or cases shall be dealt with by such town agencies, personnel, or offices as may be provided by the town council.

Sec. 7.14. - Construction.

- (a) Section captions in this charter are informative only and are not to be considered as a part hereof.
- (b) The word "shall" is intended to be mandatory and the word "may" is not.
- (c) The singular shall include the plural and the masculine the feminine and vice versa.

Sec. 7.15. - Severability.

In the event any section, subsection, sentence, clause, or phrase of this Act shall be declared or adjudged invalid or unconstitutional, such adjudication shall in no manner affect the other sections, subsections, sentences, clauses, or phrases of this Act, which shall remain of 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 hereof. The general assembly declares that it would have passed the remaining parts of this Act if it had known that such part or parts hereof would be declared or adjudged invalid or unconstitutional.

Sec. 7.16. - Repealer.

An Act incorporating the Town of Tallulah Falls in the Counties of Habersham and Rabun, approved November 12, 1889 (Ga. L. 1888-89, p. 1003), as amended, is repealed in its entirety and all amendatory Acts thereto are likewise repealed in their entirety. All other laws and parts of laws in conflict with this Charter are repealed.

APPENDIX A. - CORPORATE BOUNDARIES

The Town of Tallulah Falls, in Habersham and Rabun counties, shall continue to be a municipal corporation under the name and style of Town of Tallulah Falls, Georgia, with corporate limits as follows:

All that tract or parcel of land lying and being in Habersham and Rabun Counties, Georgia, and being more fully described as follows:

Beginning at the intersection of the south line of land lot 220 of the 12th District, Habersham County, Georgia, with the thread of Tugalo River; thence in a westerly direction along the south line of land lots 220, 219 and 211 of the 12th District, Habersham County, to the southwest corner of said land lot 211; thence northerly along the west line of land lot 211 of the 12th District, land lots 179, 178, 177, and 176 of the 13th District, Habersham County, and land lots 175, 174, and 173 of the 13th District, Rabun County (formerly Habersham County) to the northwest corner of said land lot 173; thence easterly along the north line of land lots 173 and 185 of the 13th District, Rabun County, to the northeast corner of said land lot 185; thence southerly along the east line of land lot 185 of the 13th District, Rabun County, to the Tallulah River; thence across Tallulah River to the intersection of the north line of land lot 10 of the 5th District, Rabun County, with said Tallulah River; thence east along the north line of said land lot 10 of the 5th District to the northeast corner thereof; thence south

along the east line of land lot 10 of the 5th District, Rabun County (said line being the dividing line between the 4th and 5th Districts of Rabun County) to the northwest corner of land lot 11 of the 4th District, Rabun County; thence east along the north line of land lot 11 of the 4th District, Rabun County, to the northeast corner of said land lot 11; thence south along the east line of land lot 11 of the 4th District, Rabun County, to the southeast corner thereof, which is also the northwest corner of land lot 14; thence east along the north line of land lots 14 and 37 of the 4th District, Rabun County, to its intersection with the thread of Chattooga River, said thread of Chattooga River being the line between the States of Georgia and South Carolina; thence down the thread of the Chattooga and Tugalo River to its intersection with the south line of land lot 220 of the 12th District, Habersham County, and the point of beginning. The area embraced within the above described boundaries includes all of land lots or fractional land lots 211, 219, 220 of the 12th District, Habersham County; 179, 178, 177, 176, 183, 182, 181, 180, 195, 194, and 193 of the 13th District, Habersham County, 173, 174, 175, 184 and 185 of the 13th District, Rabun County; 10, 11, 12, and 13 of the 5th District, Rabun County, 11, 12, 13, 14, 37 and 38 of the 4th District, Rabun County, all in the State of Georgia.

CHARTER COMPARATIVE TABLE

This table shows the location of amendments to the town charter, being 1984 Ga. Laws (Act No. 585), page 3547.

Ga. Laws Year	Act No.	Page	Section	Section this Charter
1984	1062	4690	1	4.13
1990	934	4384	1	1.14
			2	2.11
			3	4.11
			4	5.10
1996	992	4463	1	2.16
			2	2.17
2007	66	3533	1	2.16
			2	2.17

PART II - CODE OF ORDINANCES

Chapter 1 - GENERAL PROVISIONS

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

The ordinances embraced in this and the following chapters shall constitute and be designated "The Code of the Town of Tallulah Falls, Georgia," and may be so cited.

State Law reference— Authority to codify ordinances, O.C.G.A. § 36-80-19.

Sec. 1-2. - Definitions and rules of construction.

The following definitions and rules shall apply to this Code unless inconsistent with the manifest intent of the town council:

Generally.

- (1) When provisions conflict, the specific prevails over the general. All provisions shall be liberally construed so that the intent of the town council may be effectuated.
- (2) Words and phrases shall be construed according to the common and approved usage of the language, but technical words, technical phrases and words and phrases that have acquired peculiar and appropriate meanings shall be construed according to such meanings.
- (3) Provisions shall be interpreted and applied so as to be the minimum requirements adopted for the promotion of the public health, safety, comfort, convenience and general welfare.
- (4) Grammatical errors shall not vitiate, and a transposition of words and clauses may be resorted to when the sentence or clause is without meaning as it stands.

As soon as possible. The term "as soon as possible" means within a reasonable time, having due regard to all the circumstances.

Charter. The term "Charter" means the Charter of the Town of Tallulah Falls, Georgia, as now or hereafter amended.

Code. The term "Code" refers to "The Code of the Town of Tallulah Falls, Georgia," as designated in section 1-1.

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. If the last day shall fall on Saturday or Sunday, the party having such privilege or duty shall have through the following Monday to exercise such privilege or to discharge the duty. When the last day prescribed for such action shall fall on a public or legal holiday as set forth in state law, the party having such privilege or duty shall have through the following business day to exercise such privilege or to discharge the duty. When the period of time prescribed is less than seven days, an intermediate Saturday, Sunday and legal holiday shall be excluded in the computation.

Conjunctions. In a provision involving two or more items, conditions, provisions or events, which items, conditions, provisions or events are connected by the conjunction "and," "or" or "either...or," the conjunction shall be interpreted as follows, except that the terms "and" and "or" may be interchangeable when the context so requires:

- (1) "And" indicates that all the connected terms, conditions, provisions or events apply.
- (2) "Or" indicates that the connected terms, conditions, provisions or events apply singly or in any combination.
- (3) "Either...or" indicates that the connected terms, conditions, provisions or events apply singly but not in combination.

County. The term "county" means Habersham County, Georgia, Rabun County, Georgia, or both such counties.

Delegation of authority. Any provision requiring a town officer or town employee other officer to do an act or perform a duty shall be construed to authorize the officer or employee to designate, delegate and authorize subordinates to do the required act or perform the required duty.

Following. The term "following" means next after.

Gender and singular and plural. When any subject matter or person is described or referred to by terms importing the singular number or the masculine gender, several matters and persons, and females as well as males, and bodies corporate as well as individuals, shall be deemed to be included. Whenever terms importing the plural number are used in describing or referring to any matter or persons, any single matter or person shall be deemed to be included, although distributive words may not be used.

Include, including. The term "include," "including" or any other similar term of inclusion means without limitation or restriction.

Judge. The term "judge" means the municipal judge.

May. The term "may" is to be construed as being permissive and not as being mandatory.

May not. The term "may not" has a prohibitory effect and states a prohibition.

Month. The term "month" means a calendar month.

Must. The term "must" is to be construed as being mandatory and not as being permissive.

O.C.G.A., state acts. The abbreviation "O.C.G.A." means the Official Code of Georgia Annotated, as now or hereafter amended. A reference to a state act, whether by year and act number, year, act number and page, year and page or short title is a reference to such act as now or hereafter amended.

Oath. The term "oath" shall be construed to include an affirmation in all cases in which, by law, an affirmation may be substituted for an oath, and in such cases the terms "swear" and "sworn" shall be equivalent to the terms "affirm" and "affirmed."

Officers, departments, etc. References to officers, departments, board, commissions or employees are to town officers, town departments, town boards, town commissions and town employees.

Owner. The term "owner," as applied to property, includes any part owner, joint owner, tenant in common, tenant in partnership, joint tenant or tenant by the entirety of the whole or part of such property.

Person. The term "person" means any human being, any governmental or political subdivision or public agency, any public or private corporation, any limited liability company, any partnership, any firm, association or other organization, any receiver, trustee, assignee, agent, or other legal representative of any of the foregoing or any other legal entity.

Personal property. The term "personal property" includes money, goods, chattels, things in action, evidences of debt and energy.

Preceding, following. The terms "preceding" and "following" mean next before and next after, respectively.

Premises. The term "premises," as applied to real property, includes lands and structures.

Property. The term "property" includes real and personal property.

Real estate or real property. The term "real estate" or "real property" includes lands, tenements and hereditaments and all rights thereto and interests therein.

Shall. The term "shall" is to be construed as being mandatory and not permissive.

Sidewalk. The term "sidewalk" means a strip of land in front of or on the sides of a house or lot of land lying between the property line and the street.

Signature or subscription. The term "signature" or "subscription" includes a mark when a person cannot write.

State. The term "state" means the State of Georgia

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

Tenant or occupant. The term "tenant" or "occupant," as applied to premises, includes any person holding a written or oral lease, or who actually occupies the whole or any part of such premises, alone or with others.

Tense. The present tense of a verb includes the past and future tenses. The future tense includes the present tense.

Town. The term "town" means the Town of Tallulah Falls, Georgia.

Town council or council. The term "town council" or "council" means the town council of the Town of Tallulah Falls, Georgia.

Week. The term "week" means seven consecutive days.

Writing. The term "writing" includes any form of recorded message capable of comprehension by ordinary visual means.

Year. The term "year" means a calendar year.

Sec. 1-3. - Catchlines of sections; history notes; references.

- (a) The catchlines of the several sections of this Code printed in boldface type are intended as mere catchwords to indicate the contents of the section and are not titles of such sections, or of any part of the section, nor unless expressly so provided shall they be so deemed when any such section, including the catchline, is amended or reenacted.
- (b) History notes that appear in this Code after sections or subsections or that otherwise appear in footnote form are provided for the convenience of the user of the Code and have no legal effect.
- (c) Editor's notes, state law references and other references that appear in this Code after sections or subsections or that otherwise appear in footnote form are provided for the convenience of the user of the Code and have no legal effect.
- (d) Unless specified otherwise, all references to chapters or sections are to chapters or sections of this Code.

Sec. 1-4. - Effect of repeal of ordinances.

- (a) The repeal of an ordinance shall not revive any ordinance in force before or at any time the ordinances repealed took effect.
- (b) The repeal of an ordinance shall not affect any punishment or penalty incurred before the repeal took effect, nor any suit, prosecution or proceeding pending at the time of the repeal, for an offense committed under the ordinance repealed.

Sec. 1-5. - Amendments to Code; effect of new ordinances; amendatory language.

- (a) All ordinances passed subsequent to this Code which amend, repeal or in any way affect this Code, may be numbered in accordance with the numbering system of this Code and printed for inclusion herein. In the case of repealed chapters, sections or subsections or any part thereof, by subsequent ordinances, such repealed portions may be excluded from the Code by omission from reprinted pages affected thereby.
- (b) Amendments to any of the provisions of this Code should be made by amending such provisions by specific reference to the section number of this Code in the following language: "Chapter (article, division, subdivision, section or subsection (as appropriate) of The Code of the Town of Tallulah Falls, Georgia, is hereby amended to read as follows:...." The new provisions shall then be set out in full.

- (c) In the event anew provisions not heretofore existing in the Code is to be added, the following language shall be used: "The Code of the Town of Tallulah Falls, Georgia, is hereby amended by adding a chapter (article, division, subdivision, section or subsection (as appropriate to be numbered _____), which such provisions reads as follows:...." The new provisions shall then be set out in full.
- (d) All chapters, articles, divisions, subdivisions, sections and subsections desired to be repealed should be specifically repealed by chapter, article, division, subdivision, section and subsection, as the _____ case _____ may _____ be.

Sec. 1-6. - Supplementation of Code.

- (a) Supplements to this Code shall be prepared and printed whenever authorized or directed by the town. A supplement to this Code shall include all substantive permanent and general parts of ordinances adopted during the period covered by the supplement and all changes made thereby in the Code. The pages of the supplement shall be so numbered that they will fit properly into the Code and will, where necessary, replace pages that have become obsolete or partially obsolete. The new pages shall be so prepared that when they have been inserted, the Code will be current through the date of the adoption of the latest ordinance included in the supplement.
- (b) In preparing a supplement to this Code, all portions of the Code that have been repealed shall be removed from the Code by the omission thereof from reprinted pages.
- (c) When preparing a supplement to this Code, the person authorized to prepare the supplement may make formal, nonsubstantive changes in ordinances and parts of ordinances included in the supplement, insofar as necessary to do so in order to embody them into a unified Code. For example, the person may:
 - (1) Arrange the material into appropriate organizational units.
 - (2) Supply appropriate catchlines, headings and titles for chapters, articles, divisions, subdivisions and sections to be included in the Code and make changes in any such catchlines, headings and titles or in any such catchlines, headings and titles already in the Code.
 - (3) Assign appropriate numbers to chapters, articles, divisions, subdivisions, sections, and subsections to be added to the Code.
 - (4) Where necessary to accommodate new material, change existing numbers assigned to chapters, articles, divisions, subdivisions, sections, and subsections.
 - (5) Change the words "this ordinance" or similar words to "this chapter," "this article," "this division," "this subdivision," "this section," "this subsection," or "sections _____ to _____" (inserting appropriate numbers that embody the substantive provisions of the ordinance incorporated in the Code).
 - (6) Make other nonsubstantive changes necessary to preserve the original meaning of the ordinances inserted in the Code.

Sec. 1-7. - General penalty; continuing violations.

- (a) In this section the term "violation of this Code" means any of the following:
 - (1) Doing an act that is prohibited or made or declared unlawful, an offense, a violation or a misdemeanor by ordinance, by statute adopted by reference in this Code, by state rule or state regulation adopted by reference in this Code, or by order, rule or regulation authorized by ordinance.
 - (2) Failure to perform an act that is required to be performed by ordinance, by statute adopted by reference in this Code, by state rule or state regulation adopted by reference in this Code or by order, rule or regulation authorized by ordinance.

- (3) Failure to perform an act if the failure is prohibited or is made or declared unlawful, an offense, a violation or a misdemeanor by ordinance, by statute adopted by reference in this Code, by state rule or state regulation adopted by reference in this Code or by order, rule or regulation authorized by ordinance.
- (b) In this section the term "violation of this Code" includes causing, allowing, permitting, aiding, abetting, suffering, or concealing the fact of a violation of this Code.
- (c) In this section the term "violation of this Code" does not include the failure of a town officer or town employee to perform an official duty unless it is specifically provided that the failure to perform the duty is to be punished as provided in this section.
- (d) Except as otherwise provided, a person convicted of a violation of this Code shall be punished by a fine not exceeding \$1,000.00, imprisonment for a term not exceeding 60 days, labor upon the town streets, or any combination thereof. A person convicted of a violation of this Code shall be also be subject to alternative sentencing as provided by law.
- (e) Except as otherwise provided:
 - (1) With respect to violations of this Code that are continuous with respect to time, each day that the violation continues is a separate offense.
 - (2) With respect to other violations, each act of violation constitutes a separate offense.
- (f) The imposition of a penalty does not prevent revocation or suspension of a license, permit or franchise.
- (g) Violations of this Code that are continuous with respect to time, are a public nuisance and may be abated by injunctive or other equitable relief. The imposition of a penalty does not prevent equitable relief.

State Law reference— Limitations on penalties, O.C.G.A. § 36-35-6(a)(2).

Sec. 1-8. - Severability of parts of Code.

It is hereby declared to be the intention of the town 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 a court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Code.

Sec. 1-9. - Continuation of existing ordinances.

The provisions of this Code, so far as they are the same as ordinances existing at the time of adoption of this Code, shall be considered as a continuation thereof and not as new enactments.

Sec. 1-10. - Prior acts, obligations or uses unaffected.

- (a) Nothing in this Code or the ordinance adopting this Code affects 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 Code.
- (b) The adoption of this Code does not authorize or permit any use or the continuance of any use of a structure or premises in violation of any ordinance of the town in effect on the date of adoption of this Code.

Sec. 1-11. - Certain ordinances not affected by Code.

Nothing in this Code or the ordinance adopting this Code affects any ordinance:

- (1) Amending the Charter.

- (2) Extending or contracting the boundaries of the town.
- (3) Promising or guaranteeing the payment of money for the town, or authorizing the issuance of any bonds of the town or any evidence of the town's indebtedness, or any contract or obligations assumed by the town.
- (4) Prescribing the number, classification, benefits or compensation of any town officers or town employees.
- (5) Making any appropriation.
- (6) Adopting a budget or amending same.
- (7) Granting any right or franchise.
- (8) Establishing or prescribing grades of any street.
- (9) Providing for local improvements and assessing taxes therefor.
- (10) Dedicating or accepting any plat or subdivision in the town.
- (11) Dedicating, naming, establishing, locating, relocating, opening, paving, widening, vacating, etc., any street or public way in the town.
- (12) Providing for subdivision regulations or approving any plat.
- (13) Levying or imposing taxes not codified in this Code.
- (14) Pertaining to zoning or a comprehensive plan.
- (15) That is temporary, although general in effect.
- (16) That is special, although permanent in effect.
- (17) The purpose of which has been accomplished.

Chapter 2 - ADMINISTRATION [\[1\]](#)

Footnotes:

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State Law reference— Municipalities generally, O.C.G.A. § 36-30-1 et seq.

ARTICLE I. - IN GENERAL

Sec. 2-1. - Fee schedule.

The following are the fees, charges and rates required by this Code. If a fee or charge is listed below but is not required elsewhere in the Code, the inclusion of such fee below shall be a requirement that such fee or charge be paid:

<i>Code Section</i>	<i>Description</i>	<i>Fees, Charges or Rates</i>
4-70(1)	Malt beverage license for the sale of malt beverages	\$400.00
4-70(2)	Wine license for the sale of wine	\$400.00

4-70(4)	Alcoholic beverages manufacturer annual license fee	TBD
4-70(5)	License for the distribution of wine to other importers or wholesale dealers	TBD
8-2	New structural construction, additions and buildings moved to a new site:	\$175.00
	Alteration of an existing building or structure, including mobile homes, the area affected by such modification	\$75.00
	Mobile homes and "relocatable homes," for the unit as shipped from the manufacturer	\$175.00
18-22	License fee for each calendar year on all occupations and businesses having a location or office in town	\$50.00
18-57	Annual license fee upon each insurer doing business within the town	\$15.00
18-58	License fee for insurers insuring certain risks at additional business locations	\$10.00
18-59	Annual license fee upon independent insurance agencies and brokers for each separate business location	\$15.00
18-125(b)	Investigation fee for adult entertainment establishment employee	\$50.00
18-126	Non-refundable application fee for an adult entertainment establishment permit	TBD
18-133	Adult entertainment establishment change of location fee	TBD
18-144	Initial adult entertainment establishment license fee	\$1,000.00
	Adult entertainment establishment renewal license fee	\$1,000.00
18-202	Business license fee for peddlers and itinerant merchants	\$50.00/week
20-8	Technology fee	\$8.00
28-6	Variance application fee	\$250.00

28-7	Sign permit fee	\$25.00
38-22(a)	Water—Deposit fee	
	Residential	\$50.00
	Commercial	\$200.00
38-24(a)	Charge for obtaining a three-fourths-inch standard metered tap	\$1,500.00
38-24(b)	Cost to the town to extend water distribution line to the consumer	Up to \$500.00
38-24(c)	Tap-on fee for single-family residence	\$1,500.00
38-24(d)	Tap-on fee for multi-family dwellings, per dwelling	\$1,500.00
38-28(c)(3)	Penalty paid upon payment of delinquent amount to the public employee designated by the water system manager	10%
38-28(c)(4)	Water reconnection fee to be paid after all outstanding charges against account have been satisfied	\$100.00
38-28(e)	Fee for water reconnections after a requested termination of service during vacations or any period of time greater than two months	\$50.00
38-29(b)(1)	Water rate for residential consumers for first 3,000 gallons	\$18.00
38-29(b)(1)	Water rate for Hickory Nut Mountain customers for the first 3,000 gallons	\$25.00
38-29(b)(1)	Water rate for residential consumers per 1,000 gallons used after initial 3,000 gallons	\$5.00
38-29(b)(2)	Water rate for commercial and industrial consumers for the first 3,000 gallons used	\$32.00
38-29(b)(2)	Water rate for commercial and industrial consumers per 1,000 gallons used after initial 3,000 gallons used	\$5.00

	Carnival/festival fee	\$500.00
	Food trucks/mobile unit retail	\$25.00 per day

Sec. 2-2. - Office hours.

All units in the administrative service shall be open between the hours of 9:00 a.m. and 5:00 p.m. on all weekdays. Units shall be closed on Saturday, Sunday and legal holidays and also closed for lunch from 12:00 noon to 1:00 p.m.

Sec. 2-3. - Records retention schedule.

The town hereby adopts the records retention schedule for municipal governments as approved by the state records committee. A copy of such schedule is on file in the office of the town clerk.

State Law reference— Records retention schedules, O.C.G.A. § 50-18-99.

Secs. 2-4—2-24. - Reserved.

ARTICLE II. - TOWN COUNCIL

DIVISION 1. - GENERALLY

Sec. 2-25. - Regular meetings.

- (a) The town council shall meet at the town hall or such other place as may be designated by it, at 6:00 p.m. on the first Thursday following the first Tuesday in each calendar month.
- (b) If a quorum shall fail to attend any regular or special meeting of the town council, the meeting may be adjourned to any date prior to the next regular meeting agreed upon by a majority of the members present. If said quorum is not present, official business shall not be conducted.

Secs. 2-26—2-53. - Reserved.

DIVISION 2. - RULES OF ORDER AND PROCEDURE

Sec. 2-54. - Agenda; citizen appearances.

The agenda for regular meetings of the town council shall be prepared on Monday of the week of the scheduled meeting. Citizens desiring to bring business before the council shall notify the town clerk by 12:00 noon Monday in order to include the business on the agenda for consideration by the town council.

Sec. 2-55. - Call to order.

The mayor or, in his absence, the mayor pro tempore, shall take the chair at the hour appointed for any regular, temporarily adjourned, special, or called council meeting; and shall immediately call the council to order.

Sec. 2-56. - Roll call.

Before proceeding with the business of the council, the town clerk shall call the roll of the members, and the name of those present shall be entered in the minutes.

Sec. 2-57. - Order of business.

The order of business to be transacted at regular council meetings shall be established by the mayor and councilmembers.

Sec. 2-58. - Executive session.

The town council may, at any time, as permitted by state law, upon call therefor by the presiding officer or upon motion duly carried by a councilmember, meet in executive session. Attendance at such sessions shall be limited to the mayor and members of the council and such invitees as shall be invited with the unanimous consent of the town council.

State Law reference— When closed meetings allowed, O.C.G.A. § 50-14-3; procedure for closure of meetings, O.C.G.A. § 50-14-4.

Sec. 2-59. - Reading of minutes.

Unless a reading of the minutes of a council meeting is requested by a councilmember, such minutes may be approved without a reading if the town clerk has previously furnished each member with a copy thereof.

Sec. 2-60. - Reports by committees.

- (a) Any business coming before the town council concerning the subject matter of which any standing or special committee has jurisdiction may be referred to the proper committee for investigation and report. It shall be the duty of each standing or special committee, whenever required by the mayor or by the town council, or any member of the town council, to examine any matter referred to such committee, and make a report thereof at the next regular meeting of the town council, or show good cause why no report is made. Such reports shall not be in writing unless so directed by the presiding officer.
- (b) Each standing committee shall examine the condition of the matters within its jurisdiction, and make such reports and recommendations from time to time as may be necessary.

Sec. 2-61. - Manner of addressing commission.

No member, while the town council is in session, shall speak on any subject unless recognized by the presiding officer. Every speaker shall address the chair, and no member shall interrupt anyone who is speaking, except to call him to order or for explanation.

Sec. 2-62. - Limitations on addressing council.

Any person not a member of town council who desires to address the council shall first secure the permission of the presiding officer, and then shall stand, give his name and address in an audible tone of voice for the record, and direct his remarks to the council as a body rather than to any particular member, limiting such remarks to five minutes unless additional time is granted by the council.

Sec. 2-63. - Ordinances, resolutions, contracts and interlocal agreements.

Unless otherwise provided in this Code, all ordinances, resolutions, contracts and interlocal agreements of the town shall be prepared, approved, introduced and adopted in the following manner:

- (1) *Preparation.* No ordinance shall be prepared for presentation to the council unless ordered by a majority vote of the council, requested in writing by the mayor, or prepared by the town clerk on his own initiative.
- (2) *Administrative staff approval.* All ordinances, resolutions, and contract documents shall, before presentation to the council, have been approved as to form and legality by the town attorney or the attorney's authorized representative.

Sec. 2-64. - Questions of order.

The presiding officer shall decide all questions of order, but any councilmember who is dissatisfied with the decision may appeal to the town council.

Secs. 2-65—2-86. - Reserved.

ARTICLE III. - OFFICERS AND EMPLOYEES

DIVISION 1. - GENERALLY

Sec. 2-87. - Designated; oath.

- (a) The officers of the town shall be those provided for by the Charter and/or those positions established by the town council.
- (b) There is hereby created the office of chief of police of the town.
- (c) There is hereby created the office of fire chief (volunteer) of the town.
- (d) All officers and employees (including members of boards, council and authorities) required by the Charter or some other provision of law to take an oath shall, before entering upon the discharge of their respective duties, take and subscribe to the oath before an officer authorized by law to administer oaths.

State Law reference— Official oaths, O.C.G.A. § 45-3-1 et seq.

Sec. 2-88. - Appointment and duties of town attorney.

- (a) The town attorney shall be appointed by the town council at their first regular meeting of each year.
- (b) 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 town 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 town council.

Secs. 2-89—2-119. - Reserved.

DIVISION 2. - CLERK

Sec. 2-120. - Required books and records.

The town clerk shall keep the following books and records:

- (1) An accurate minute book of the proceedings of the town council.

- (2) A resolution book in which shall be entered all resolutions passed by the town council, with the date of the meeting at which passed.

Sec. 2-121. - Affixing seal, attesting instruments.

The town clerk shall affix the corporate seal of the town and attest all deeds and other instruments requiring the corporate seal.

Secs. 2-122—2-140. - Reserved.

ARTICLE IV. - BOARDS AND COMMISSIONS

DIVISION 1. - GENERALLY

Secs. 2-141—2-163. - Reserved.

DIVISION 2. - PLANNING AND ZONING COMMISSION

Sec. 2-164. - Creation.

There is hereby created a body known as the planning and zoning commission for the town.

(Ord. of 11-13-1976(2), intro. ¶)

Sec. 2-165. - Membership.

The planning and zoning commission shall consist of five members, who shall be residents of the town, appointed by the town council. The terms of the members shall be for four years, except that in the appointment of the first planning commission under the terms of this division, the first member shall be appointed for a term of one year, the second member shall be appointed for a term of two years, the third member shall be appointed for a term of three years, the fourth member shall be appointed for a term of four years, and the fifth member shall be appointed for a term of three years. Any vacancy in membership shall be filled for the unexpired term by the town council who shall also have the authority to remove any member for cause on written charges, after a public hearing. All members shall serve without compensation but may be reimbursed for actual expenses incurred in connection with their official duties.

(Ord. of 11-13-1976(2), § 1)

Sec. 2-166. - Organization, rules, staff, and finances.

- (a) The planning and zoning commission shall elect its chairman from among its members. The term of the chairman shall be one year with eligibility for re-election. The planning and zoning commission shall appoint a secretary, who may be an officer or employee of the municipality. The planning and zoning commission shall make its own rules of procedure and determine its time of meeting. All meetings of the planning and zoning commission at which official action is taken shall be open to the public and all records of the planning and zoning commission shall be a public record.
- (b) The planning and zoning commission may appoint such employees and staff as it may deem necessary for its work and may contract with the state planning agency and town planners and other consultants for such services as it may require. The expenditures of the planning and zoning commission, exclusive of gifts, shall be within the amounts appropriated for the purpose of the town council.

(Ord. of 11-13-1976(2), § 2)

Secs. 2-167—2-185. - Reserved.

ARTICLE V. - FINANCE

DIVISION 1. - GENERALLY

Sec. 2-186. - Fiscal year.

The town shall operate on a fiscal year which shall begin on July 1 and end on June 30.

State Law reference— Fiscal year required, O.C.G.A. § 36-81-3(a).

Sec. 2-187. - Purchasing.

Purchases in an amount exceeding \$500.00 and not previously budgeted shall be approved by the town council prior to purchase and shall conform to all requirements and procedures as established from time to time by the town council.

Sec. 2-188. - Appointment of auditors and annual audit.

- (a) The auditors for the town shall be appointed by the town council at their first regular meeting of each year.
- (b) At the close of each fiscal year, June 30, the town shall have its financial records audited by a certified public accountant and a copy of the audit shall be provided to the town.

State Law reference— Audits required, O.C.G.A. § 36-81-7.

Sec. 2-189. - Deposit of monies received.

All units in the administrative service shall make a weekly deposit with the town clerk of any monies received directly from the public.

Sec. 2-190. - Manner of paying out monies.

The town clerk shall pay out monies belonging to the town only in the manner prescribed herein.

Sec. 2-191. - Investments.

Management of monies not required immediately to pay operational expenses necessitates a definite investment policy. The town council and town clerk shall be responsible for developing and administering, respectively, the town's investment policy, as set out in this section.

- (1) The purpose and objectives of this policy are to:
 - a. Provide an investment medium for funds which may be needed for immediate liquidity purposes.
 - b. Provide an investment medium for funds which are not needed for near-term liquidity purposes.
 - c. Provide for funds with which to meet bond reserve requirements.
 - d. Provide for a reasonable income to the town with little or no risk on the investment.
- (2) The town must rely on the expertise and advice of professional commercial and investment bankers for recommendations of proposed investments and investment strategies. The town

council shall review and approve the banking institution with which the town is authorized to make investments.

- (3) Should more than \$100,000.00 be invested with any one institution, the town shall require such institution to pledge assets sufficient to secure said investment.
- (4) At the first of each fiscal quarter, for every fund individually, the amount available for investment shall be determined by deducting monies required to meet operational expenses in the coming 90 days from the aggregate of cash-on-hand and projected revenues in such ensuing period. This amount shall be invested in two different categories. The first shall be secondary reserves to meet the liquidity demands of the town. These investments must be highly liquid in order that they may be turned into cash with little or no loss. These investments are usually bank money market accounts. The second category shall be somewhat longer-term investments, such as bank certificates of deposit and U.S. Treasury obligations. All investments will be in conformance with applicable state law.
- (5) The maturity schedule on bank certificates of deposit and U.S. Treasury obligations shall take into consideration the projected expenditures and revenues of the town. The annual budget shall be a major source document for making such projections.
- (6) The town council shall have a monthly report made available to it on all current investments of the town.

State Law reference— Authorized investments, O.C.G.A. §§ 36-80-3, 36-80-4.

Secs. 2-192—2-220. - Reserved.

DIVISION 2. - BUDGET^[2]

Footnotes:

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State Law reference— Local government budgets, O.C.G.A. § 36-81-1 et seq.

Sec. 2-221. - Procedures for adoption of budget.

The municipal budget shall be introduced, approved, amended and adopted by ordinance, and passed by not less than a majority of the full membership of the town council. The procedure shall be as follows:

- (1) The municipal budget shall be introduced in writing on or before June 1 of each year by the town clerk and approved no later than July 30 of each year.
- (2) Public notice regarding the proposed budget and subsequent consideration of the budget by the council shall be conducted as required by O.C.G.A. title 36, ch. 81 (O.C.G.A. § 36-81-1 et seq.).
- (3) The council shall make any amendments to the budget in compliance with O.C.G.A. § 36-81-1 et seq.
- (4) The town clerk, being responsible to the council for the budget, shall administer the budget and may authorize the transfer of appropriated funds within and between departments with the approval of council as necessary to achieve the goals of the budget.

Sec. 2-222. - Emergency appropriations.

Notwithstanding any other provision of this article, the town council may make emergency appropriations after the adoption of a budget, for a purpose which was not foreseen at the time of the adoption thereof, or for which adequate provision was not made therein. Such an appropriation shall be made only to meet a public emergency affecting life, health, safety, property or the public peace, and shall be made only out of actual unappropriated revenues of surplus. If there is no surplus, then temporary borrowing in notes may be made, provided that any such borrowed amounts are included as an appropriation in the next succeeding year's budget.

Chapter 4 - ALCOHOLIC BEVERAGES¹¹

Footnotes:

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State Law reference— Alcoholic beverages, O.C.G.A. title 3; local regulation of alcoholic beverages, O.C.G.A. § 3-3-2.

ARTICLE I. - IN GENERAL

Sec. 4-1. - 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:

Alcoholic beverage means any beverage containing alcohol and shall include, but shall not be limited to, malt beverages, wines and distilled spirits.

Distilled spirits means any alcoholic beverage obtained by distillation or containing more than 24 percent alcohol by volume.

Importer means any person who imports an alcoholic beverage into this state from a foreign country and sells the alcoholic beverage to another importer, broker or wholesaler and who maintains a stock of the alcoholic beverage.

Lounge means a separate room connected with a part of and adjacent to a restaurant with all booths, stools and tables being unobstructed and open to view. All lounges shall be air conditioned and have a seating capacity of at least 40.

Malt beverage means any alcoholic beverage obtained by the fermentation of any infusion or decoction of barley, malt, hops or any other similar product, or any combination of such products in water, containing not more than 14 percent alcohol by volume and including ale, porter, brown, stout, lager beer, small beer and strong beer. The term "malt beverage" does not include sake, known as Japanese rice wine.

Minor means any person less than 21 years of age.

Premises means the space or area owned, leased and/or controlled by the licensee and used by him for the purposes of operating under the license; except that in the case of hotels and motels, the term "premises" shall include only the portion of the property where alcoholic beverages are sold; except further, that in the case of private clubs, the term "premises" shall include the swimming pool, which is in the immediate vicinity of the main building of the private club and which is open to members only and their guests and not the general public. Such swimming pool must have a minimum of 2,500 square feet of water surface and with required lifeguards. The term "premises" is further defined as one physically identifiable place of business consisting of one room, or two or more contiguous rooms operating under the same trade name where alcoholic beverages are sold. Any premises outlets which cannot be determined as one identifiable place of business shall require additional licenses regardless of such establishments having the same trade name, ownership or management; provided nothing herein shall require additional licenses for service bars, or portable bars used exclusively for the purpose of fixing or preparing drinks when such bars are accessible only to employees of the licensed establishment and

from which drinks are prepared to be served in the licensed premises. In the case of a malt beverage and/or wine licensee where a golf course is located adjacent to and contiguous with a restaurant, the term "premises" shall include the playing area of the golf course.

Private club (general) means any non-profit association organized under the laws of the state which:

- (1) Has been in existence at least one year prior to the filing of its application for a license to be issued pursuant to this chapter;
- (2) Has at least 75 regular dues-paying members;
- (3) Owns, hires or leases a building or space within a building for the reasonable use of its members, in which building or space:
 - a. Has suitable kitchen and dining room space and equipment;
 - b. Is staffed with a sufficient number of employees for cooking, preparing and serving meals for its members and guests; and
- (4) Has no member, officer, agent or employee directly or indirectly receiving, in the form of salary or other compensation, any profits from the sale of alcoholic beverages beyond a fixed salary.

Private club (under Internal Revenue Code) means an organization complying with section 501(a) of the United States Internal Revenue Code for a tax-exempt status. A certificate of such compliance shall be submitted to the town clerk before an alcoholic beverage license is issued hereunder. Such private club shall have been in operation at least one year before an application for a license hereunder is made.

Residence means the act or fact of living or regularly staying at or in some place for the discharge of a duty or the enjoyment of a benefit or the place where one actually lives as distinguished from his domicile or place of temporary adjourn.

Resident means a person whose primary residence is within the territorial limits of the city.

Restaurant means any public place kept, used, maintained, advertised and held out to the public as a place where meals are served and where meals are actually and regularly served, such place being provided with adequate and sanitary kitchen and dining room equipment, air conditioned, having employed therein a sufficient number and kind of employees to prepare, cook and serve suitable food for its guests. At least one meal per day shall be served at least five days a week, with the exception of holidays, vacations and periods of redecoration, and the serving of such meals shall be the principal business conducted, with the serving of alcoholic beverages to be consumed on the premises as only incidental thereto. A restaurant shall provide at least 45 seats for customers.

(Ord. of 4-5-2007, § 1)

State Law reference— Similar provisions, O.C.G.A. §§ 3-1-2, 2-7-1.

Sec. 4-2. - Drinking in public.

- (a) This section shall not prohibit conduct exempted by O.C.G.A. § 40-6-253. It shall be unlawful for any person to drink or consume any wine, malt beverage or other alcoholic beverage on any public street or alley, or on any other public property in the town where such consumption may be observed by the public, or adjacent to any place of business or commercial establishment in the town.
- (b) The offense shall be complete whether said consumption of alcoholic beverages shall be in an automobile or other vehicle if the same is in view of the public or in view of any road or street.
- (c) The possession of any alcoholic beverages, the container of which has been opened or removed from its original carton or package, at such public place or place of business shall be prima facie evidence of the violation of this section.

Secs. 4-3—4-22. - Reserved.

ARTICLE II. - DEALERS AND MANUFACTURERS

DIVISION 1. - GENERALLY

Sec. 4-23. - Sale declared a privilege.

Notwithstanding anything in this chapter to the contrary, the sale of alcoholic beverages in the town is a privilege and not a right, and the issuance of a license hereunder shall not create any property rights in the license holder.

(Ord. of 4-5-2007, § 6(G))

Sec. 4-24. - Violations.

The violation of any of the provisions of this chapter by a holder of an alcoholic beverage license or his agent or employee shall be a misdemeanor and shall also subject the holder of such license to suspension or revocation of such license as the town council deems proper.

(Ord. of 4-5-2007, § 6(H))

Sec. 4-25. - Compliance with chapter; copy of chapter.

The holder of every alcoholic beverage license hereunder shall have available in his place of business at all times a copy of this chapter and shall be responsible for compliance herewith by all persons on the premises.

(Ord. of 4-5-2007, § 11(J))

Sec. 4-26. - Inspection by town.

Premises operated under the provisions of this chapter shall be open to inspection by authorized personnel of the town during operating hours.

(Ord. of 4-5-2007, § 11(K))

Sec. 4-27. - Failure to make reports or pay taxes.

Upon the failure of any person selling alcoholic beverages in the town to furnish to the town clerk any report required by town ordinances or to pay any tax due the town for the sale of such commodities promptly when due, there shall be assessed a penalty of ten percent of the amount of tax due or shown to be due by any such report, in addition to such tax. Continuing failure to furnish any report and pay any tax shall be grounds to suspend the license.

(Ord. of 4-5-2007, § 11(B))

Sec. 4-28. - Unauthorized sales.

No holder of a license authorizing the sale of alcoholic beverages in the town nor any agent or employee of the licensee, shall sell, offer for sale, possess, or permit the consumption on the licensed premises of any kind of alcoholic beverages, the sale, possession or consumption of which is not authorized under his license.

(Ord. of 4-5-2007, § 10(A)(viii))

Sec. 4-29. - No consumption off premises.

It is prohibited for customers to leave the premises of an establishment with a consumption on the premises license with alcoholic beverages, and it is the licensee's responsibility to ensure that no beverages are sold and carried out.

(Ord. of 4-5-2007, § 13)

Sec. 4-30. - Use of wholesalers.

No holder of a license authorizing the sale of alcoholic beverages in the town nor any agent or employee of the licensee shall receive or cause to be delivered at the licensed premises any alcoholic beverages by any means other than by a conveyance owned and operated by a wholesale dealer with a license from the town to make such deliveries. Transportation of alcoholic beverages by any other means shall be grounds for revocation of all licenses concerned.

(Ord. of 4-5-2007, § 10(A)(x))

Sec. 4-31. - Excise tax generally.

- (a) Excise taxes on alcoholic beverages shall be paid and collected as set out by ordinance. Copies of the summary of sales showing delivery by each supplier to retailers and/or consumption on the premises licensees shall be furnished to the town clerk with each monthly payment. Any misstatement or concealment of fact in reports or applications shall be grounds for revocation of the license issued and shall make the applicant or licensee liable to prosecution for perjury under the laws of the state.
- (b) Persons selling malt beverages for consumption on the premises licensees shall comply with subsection (a) of this section but will substitute "state form ATT-122" for "summary of sales" (or such other form as issued by the state).

(Ord. of 4-5-2007, § 5)

Sec. 4-32. - Required food sales.

Consumption on the premises licensees shall maintain at least 60 percent of their business volume from the sale of food, private clubs excepted. Which means that no more than 40 percent of business volume shall be from the sale of alcoholic beverages. The 60 percent ratio shall be determined on a calendar-quarter basis on the monthly report submitted by each licensee. In the event food sales fall below 60 percent of the business volume of alcoholic beverage sales for any quarter, then the license holder shall be placed on probation for the next succeeding quarter. At the end of the next succeeding quarter, if food sales have not attained 60 percent of business volume, then the town council shall suspend such license in accordance with section 4-74. Nothing herein provided shall prevent the town council from suspending or revoking such license for any other violations of this chapter. Authorized officials may examine the records of businesses licensed hereunder at any reasonable time to ascertain that the requirements of this section and other provisions of this chapter are met.

(Ord. of 4-5-2007, § 11(A))

Sec. 4-33. - Off-premises sale prohibited; requirements for sales areas.

- (a) It shall be unlawful for any licensee hereunder to make deliveries of any alcoholic beverage by the drink beyond the boundaries of the premises covered by the license.
- (b) The sale of alcoholic beverages for consumption by persons shall be sold only in areas open to the general public use. All areas must be contained in the same building with the license holder. All areas must have a barrier to restrain traffic to outside areas. The barrier may consist of a solid wall, glass, screen or other approved device to prevent physical ingress/egress from building except at a monitored entrance.
- (c) A monitored entrance consists of an entrance that has a responsible person supervising ingress/egress at all times alcohol is served; covering all areas of the building where alcohol is served.
- (d) All unmonitored exits are for emergency use only,

(Ord. of 4-5-2007, § 11(C); Ord. of 5-15-2008)

Sec. 4-34. - Storage.

All alcoholic beverages shall be stored only on the premises for which the license is issued.

(Ord. of 4-5-2007, § 1(D))

Sec. 4-35. - Days and hours of sale; sale for carryout purposes.

- (a) No holder of a license authorizing the sale of alcoholic beverages in the town nor any agent or employee of the licensee shall sell alcoholic beverages upon the licensed premises on any day or at any time when such sale or consumption is prohibited by law. The hours of sale of malt beverages and wine are:
 - (1) For sale of malt beverages or wine for consumption by the drink on the premises where sold: 11:00 a.m. to 11:00 p.m. Monday through Saturday except as otherwise provided in state law.
 - (2) No malt beverages or wine will be sold on Christmas day.
- (b) The sale of malt beverages or wine at any other time is prohibited.
- (c) There shall be no sale of beer or wine for carry-out purposes.

(Ord. of 4-5-2007, § 10(A)(iv))

Sec. 4-36. - Customers on premises when sales are prohibited.

All licensees for the sale of alcoholic beverages for consumption on the premises shall remove, or cause to be removed from the area of the premises utilized by customers or patrons all alcoholic beverages within 45 minutes after the closing time for the sale of alcoholic beverages.

(Ord. of 4-5-2007, § 10(A)(xi))

Sec. 4-37. - Posting Sunday sales prohibition.

All licensees who open their place of business on Sunday for the sale of merchandise other than alcoholic beverages shall post in locations where alcoholic beverages are on display the prohibition against sales on Sunday in such a manner as approved by the town council.

(Ord. of 4-5-2007, § 11(E))

Sec. 4-38. - Duty to maintain order.

No holder of a license authorizing the sale of alcoholic beverages in the town, nor any agent or employee of the licensee, shall permit any disturbance of the peace or obscenity on the licensed premises. Such misconduct shall be immediately reported to the town police department.

(Ord. of 4-5-2007, § 10(A)(vi))

Sec. 4-39. - Vending machines.

No licensee shall sell or offer for sale alcoholic beverages by use of vending machines.

(Ord. of 4-5-2007, § 10(A)(vii))

Sec. 4-40. - Adding to contents of bottles; refilling bottles.

No holder of a license authorizing the sale of alcoholic beverages in the town nor any agent or employee of the licensee, shall, upon the licensed premises, add to the contents of a bottle or refill empty bottles or in any other manner misrepresent the quantity, quality or brand name of any alcoholic beverage.

(Ord. of 4-5-2007, § 10(A)(ix))

Sec. 4-41. - Approved employees.

- (a) No person shall be employed to dispense, sell, serve, take orders, or be in any managerial position, by an establishment holding a license for beer or wine for consumption on premises, unless such person has been approved by the individual named on the alcoholic beverage license for such establishment.
- (b) The license holder shall maintain a list of all persons approved to dispense, sell, serve, take orders, or who has a managerial position involving the serving of alcohol. In addition:
 - (1) The list shall contain the approved name, their date of birth, social security number and driver's license number.
 - (2) The list shall be kept at the front desk of the premises at all times.
- (c) The license holder shall also keep with the list, proof of the age of the approved person in the form of a photocopy of a driver's license or other equivalent document.
- (d) The list and supporting documentation shall be produced upon the request of any law enforcement officer.
- (e) It shall be the duty of the alcoholic beverage license holder to keep the list and supporting documentation current at all times.
 - (1) No person shall be approved to dispense, sell, serve, or take orders, or who has been convicted, plead guilty, or entered a plea of nolo contendere to any crime involving the sale or possession of alcoholic beverages or any felony within three years of the date of the application.
 - (2) No person shall be approved if he has been the holder of an alcoholic beverage license or employee permit which has been revoked within five years of the date of the application.

- (3) Any person approved under this section shall be removed from the approved list by the license holder or by the chief of police if it is determined that the individual has violated any provision of this chapter or committed any offense which would make him ineligible to hold such a permit.
- (4) Failure to maintain the list described in this section shall be a violation of this chapter.

(Ord. of 4-5-2007, § 11(O))

Sec. 4-42. - Happy hours or free drinks prohibited; sales in connection with food required.

- (a) No holder of a license authorizing the sale of alcoholic beverages in the town, nor any agent or employee of the licensee, shall upon the licensed premises offer, sell or serve multiple drinks, reduced price drinks or increased alcoholic volume drinks.
- (b) The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Drink means a single portion beverage which contains any alcoholic beverage.

Licensee means any person who holds a license from the town to engage in the sale of alcoholic beverages by the drink for consumption on the premises.

Price regularly charged means the full price charged without discounts by the licensee for such drink or drinks during the preceding calendar week.

Private function means any affair where attendance is by invitation only and where the cost of the drinks served is paid by the host.

- (c) No licensee or agent or employee of a licensee shall:
 - (1) Offer or deliver any free drinks to the general public;
 - (2) Sell, offer to sell, or deliver more than one drink to one person at one time without a 60 percent food order;
 - (3) Sell, offer to sell, or deliver to any person or group of persons any drink at a price less than the price regularly charged for such drinks during the preceding calendar week except at private functions;
 - (4) Sell, offer to sell, or deliver to any person or group of persons an unlimited number of drinks during any set period of time for a fixed price, except at private functions;
 - (5) Sell, offer to sell, or deliver alcoholic beverages, by the pitcher, except to two or more persons at any one time;
 - (6) Increase the volume of alcoholic beverages contained in a drink without increasing proportionately the price charged for such drink;
 - (7) Encourage or permit on the licensed premises any game or contest which involves drinking or the awarding of drinks as prizes.
- (d) The prohibitions and restrictions in this section which apply to licensees or agents or employees of licensees shall not:
 - (1) Apply at private functions;
 - (2) Prohibit the offering of free food or entertainment at any time;
 - (3) Prohibit including drinks as part of the price of a hotel, travel entertainment, or meal package;
 - (4) Prohibit the sale, offer to sell, or delivery of wine or malt beverages by the bottle, pitcher or carafe; or
 - (5) Prohibit any motel or hotel from offering room service to registered guests.

(Ord. of 4-5-2007, § 10(A)(xii))

Sec. 4-43. - Prohibited financial interests.

It shall be unlawful for any person to hold an alcoholic beverage license who also has any direct financial interest in any wholesale alcoholic beverage business. It shall be unlawful for the holder of any alcoholic beverage license to accept or receive financial aid or assistance from the holder of any alcoholic beverage manufacturer's or wholesale dealer's license.

(Ord. of 4-5-2007, § 11(I))

Sec. 4-44. - Reports of business interests in licensees.

- (a) No person shall have, own or enjoy any ownership, interest in, share in the profits from, or otherwise participate in the business of any alcoholic beverage licensee in the city unless a full description of such interest shall have been furnished by the town council at the time such interest arose. It shall be the duty of the licensee to report to the council, within five days, any change in any interest in such licensee's business, including, but not limited to:
- (1) Any division of the profits;
 - (2) Any division of net or gross sales for any purpose whatsoever;
 - (3) Any change in the payment of rents or leases;
 - (4) Any change in the ownership of any lease or building or land used in such business;
 - (5) Any change in the ownership of any corporation that has any interest in such business or the change of management of such corporation.
- (b) After receipt of such notice, the council shall notify such person within a reasonable time of any objection to the ownership or interest set forth therein, and it shall then be incumbent upon such person to dispose of such interest within 30 days after the mailing of the notice to do so by the council to such person at his address as shown on such notice of interest. In the event such interest is not disposed of within 30 days after the mailing of the notice by the council, or in the event no objections are filed within such 30-day period, or in the event such person fails to notify the council of the transfer of any such interest within 20 days after the acquisition thereof, then the license as provided for herein may be revoked by the council until disposition of the interest has been made or notice given to the council of the transfer.
- (c) The report required by this section shall be in the form required by the council and shall be an amendment to the licensee's permanent license application on file with the council and as such shall be under oath and verified as otherwise required of license applications.

(Ord. of 4-5-2007, § 8(A))

Sec. 4-45. - Brown bagging prohibited.

No brown bagging shall be allowed; this means that any restaurant operating within the town shall not allow anyone to bring their own alcoholic beverages for consumption on the premises.

(Ord. of 4-5-2007, § 11(L))

Secs. 4-46—4-63. - Reserved.

DIVISION 2. - LICENSE

Sec. 4-64. - Manufacturer, importer, wholesale, retail and consumption on the premises licenses.

Manufacturer, importer, wholesale, retail and consumption on the premises licenses for the sale of alcoholic beverages in the town, will be issued by the town council pursuant to this chapter.

(Ord. of 4-5-2007, § 7)

State Law reference— General local powers as to alcoholic beverage licenses, O.C.G.A. § 3-3-2; license required to distribute, sell, etc., alcoholic beverages, O.C.G.A. § 3-3-3.

Sec. 4-65. - License applications; contents and terms; general qualifications for license issuance.

- (a) All costs of applying for a license shall be paid by the applicant.
- (b) All applications for licenses to sell alcoholic beverages of any kind shall be made in person by the applicant to the town clerk in writing on forms furnished by the council; signed by the applicant and shall contain but not be restricted to the following statements and information:
 - (1) The name, age, address and length of residency of the applicant.
 - (2) The name of the corporation, partnership, sole proprietorship, or other organization applying for the license. Said name shall include the legal name as well as the trade name of the business.
 - (3) A statement of whether the applicant, or any person with an interest in the application, has made application at any previous time for any alcoholic beverage license and the disposition of such application.
 - (4) Whether the applicant or any person with an interest in the application has ever been convicted of a crime, other than for traffic violations.
 - (5) Whether a previous license issued to the applicant or any person with interest in the application has been revoked by any state or subdivision thereof or by the federal government and the reason therefor.
 - (6) Whether any other person is to be interested directly or indirectly in the profits or losses or both of the proposed business.
- (c) No alcoholic beverage license shall be issued to any person unless the building in which the business will be located is completely built. The completed building shall comply with this Code and the regulations of the state. Each building in which the business is to be located shall contain sufficient lighting so that the building itself and the premises on all sides of the building are readily visible at all times from the front on the street on which the building is located so as to reveal the inside retail area of the building and so as to reveal all of the outside premises of such building. Each applicant for an alcoholic beverage license shall attach to his application evidence of ownership of the building or a copy of the lease if the applicant is leasing the building.
- (d) All new applications for alcoholic beverage licenses shall be accompanied either by lawful money of the U.S., or by a certified check or cashier's check, payable to the town for the proper amount of the license fee as set forth in section 2-1, each for beer and wine. In the event the license is refused, same shall be returned to the applicant.
- (e) All applications for renewal of alcoholic beverage licenses shall be filed with the town clerk prior to November 15. All applications for renewal of licenses for the ensuing year shall be treated as applications for new licenses, except that they need not be advertised. Payment of license fees for renewal of licenses may be made at time of application or by December 31 and upon approval of renewal and payment, the license will be issued.
- (f) No application shall be acted upon by the town council except at a regular meeting of the council.

- (g) No application for an alcoholic beverage license shall be acted upon by the town council until after the applicant shall have published a notice of such application in local newspapers (Rabun and Habersham Counties) in the town for at least four different days prior to the regular meeting at which such application is to be presented and considered. Such notice shall contain the name of the corporation, partnership, sole proprietorship, or organization and the name of the managing agent applying for the license, and the location of the proposed business. This notice shall not be required from an existing alcoholic beverage license holder making application for the renewal of an existing license at the same location.
- (h) The making of any untrue or misleading statement in the application for an alcoholic beverage license shall be sufficient cause for the refusal, suspension, revocation or cancellation of such license, as the town council shall deem proper.

(Ord. of 4-5-2007, § 6(A)—(C), (I))

Sec. 4-66. - License applications; registered agents.

- (a) For the purpose of this chapter, unless otherwise indicated, the term "applicant" means the corporation, partnership, sole proprietorship, or other organization and the managing agent.
- (b) Every managing agent applicant for an alcoholic beverage license shall be at least 21 years of age, a U.S. citizen or an alien lawfully admitted for permanent residency, and a resident of the state, and shall make application on forms furnished by the town clerk and in connection therewith shall, under oath, answer all questions, supply all information, and furnish all certificates, affidavits, bonds and other supporting data as required thereby.
 - (1) Where the application is made on behalf of a corporation, the license shall be issued jointly to the corporation and an officer or agent who meets the requirements as set forth in this section. The officer or agent named as the applicant shall be an individual who does in fact have regular managerial authority over the business conducted on the licensed premises, including the sale of alcoholic beverages, who is employed full time by the corporation. Said individual shall be known as the managing agent.
 - (2) Where the application is made on behalf of a partnership, the license shall be issued jointly to the partnership and either the managing general partner thereof, or an individual who meets the requirements set forth in this section who does in fact have managerial authority over the business conducted on the licensed premises, including the sale of alcoholic beverages, who is employed full time by the partnership. Said individual shall be known as the managing agent.
 - (3) Where the application is made on behalf of a sole proprietorship, the license shall be issued jointly to the sole proprietorship and an individual who meets the requirements set forth in this section who does in fact have management authority over the business conducted on the licensed premises, including the sale of alcoholic beverages, who is employed full time by the proprietor. Said individual shall be known as the managing agent. The managing agent may be the sole proprietor, if he otherwise qualifies under this section.
 - (4) Where the application is made on behalf of any other type of organization, the license shall be issued jointly to the organization and an individual who meets the requirements set forth in this section who does in fact have management authority over the business conducted on the licensed premises, including the sale of alcoholic beverages, who is employed full time by the organization. Said individual shall be known as the "managing agent." In the case of a non-profit private club, the managing agent may be an officer of the organization in lieu of a full time employee if the individual is otherwise qualified under this section.
 - (5) All licensed establishments must have and continuously maintain in the county a registered agent upon whom any process, notice or demand required or permitted by law or under this chapter to be served upon the licensee or owner may be served. This person must be a resident of the county. The licensee shall file the name of such agent, along with the written,

notarized consent of such agent with the town clerk in such form as the town council may prescribe.

- (6) A license application may be denied to any applicant for any alcoholic beverage license where it appears that the applicant would not have adequate participation in the proposed business to direct and manage its affairs, or where it appears that the application is intended to be a mere surrogate for a person who would not otherwise qualify for a license for any reason whatsoever.
 - (7) The written application for the license shall be a permanent record which the licensee must maintain current as required by this chapter. Failure to maintain a current application shall be grounds for revocation of the license.
 - (8) In the event the managing agent changes, the licensee shall notify the city clerk within five days of the change. A fee as set forth in section 2-1 will be charged for the processing of an application for the change of the managing agent and such applicant must be approved by the town council.
 - (9) In the event the registered agent changes, the licensee shall notify the town clerk within five days of the change. A fee as set forth in section 2-1 will be charged for the processing of a change in the registered agent.
- (c) The town council may in its discretion require a personal statement of any employee of any licensed establishment for licensing purposes.
- (d) Every managing agent applicant for an alcoholic beverage license shall submit along with his application two fingerprint cards completed by a member of a law enforcement agency. Such fingerprints shall be forwarded to the state bureau of investigation.

(Ord. of 4-5-2007, §§ 8(A), (C), (G), 11(N))

Sec. 4-67. - Sale by posts, chapters and clubs or national veterans and fraternal organizations.

The applicant under this section shall, in addition to all other applicable sections of this chapter, furnish evidence satisfactory to the town council that such post, chapter or club of a national veteran's organization or non-profit social club has been approved as a tax exempt entity by the IRS. No license shall be issued or renewed for the sale of alcoholic beverages prior to the furnishing of said evidence to the council.

(Ord. of 4-5-2007, § 6)

Sec. 4-68. - Ratio of food sales.

The town council is authorized to issue a license for the retail sale of beer and wine for consumption on the premises only with a ratio of 60 percent food and 40 percent beer or wine.

(Ord. of 4-5-2007, § 6(J))

Sec. 4-69. - Grounds to deny.

No license to sell alcoholic beverages of any kind shall be issued by the town council to or for:

- (1) Any person who has been convicted under any federal, state or local law of any felony involving moral turpitude.
- (2) Any person who has been convicted under any federal, state or local law of any felony not involving moral turpitude within ten years immediately preceding the filing of application for such license.

- (3) Any person convicted under any federal, state, or local law of a misdemeanor involving moral turpitude, particularly, but not limited to, those involving alcoholic beverages, gambling, illegal drug use or tax law violations, if such conviction tends to indicate that the applicant will not maintain the operation for which he is seeking a license in conformity with federal, state or local laws, rules and regulations.
- (4) Which the granting of such license would constitute a violation of state law or regulations.
- (5) Any person to operate a restaurant or club except as defined in section 4-1. Consumption on the premises sales shall be made in no other place or establishment.

(Ord. of 4-5-2007, § 8(D))

Sec. 4-70. - Fees.

The license fees for which provision is made within this chapter are due and payable immediately by any person who is doing business on or after January 1.

- (1) *Malt beverages.* The applicant for a consumption on the premises malt beverage license for the sale of malt beverages shall pay to the town clerk, at the time his application is submitted, as set forth in section 2-1, an annual license fee for operation for one year at one location or business where the products will be sold.
- (2) *Wine.* The applicant for a consumption on the premises wine license for the sale of wine shall pay to the town clerk, at the time his application is submitted, as set forth in section 2-1, an annual license fee for operation for one year at one location or business where the products will be sold.
- (3) *Wholesale.* Any wholesale dealer in malt beverages or wines licensed by the state and not exempted by state law, or the agent of such wholesale dealer, for malt beverages and the amount annually for wine to distribute such beverages in the town upon application for such permits to the town clerk, and the presentation of evidence that he understands the provisions of this chapter and the conditions under which licenses are issued.
- (4) *Manufacturer.* The applicant for a manufacturer license shall pay to the town clerk, at the time his application is submitted the amount as provided in section 2-1 an annual license fee for operation for one year at one location where the products will be manufactured.
- (5) *Importer licenses.* Any importer of malt beverages or wines licensed by the state will be granted a license for the warehousing and distribution of malt beverages to other importers or wholesale dealers upon payment of the amount annually, and will be granted a license for the warehousing and distribution of distilled spirits to other importers or wholesale dealers upon payment of the amount annually, and will be granted a license for the warehousing and distribution of wine to other importers or wholesale dealers upon payment of the amount as provided in section 2-1, and will be granted a license for the warehousing and distribution of wine to other importers or wholesale dealers upon payment of the amount annually. Such licenses shall permit the warehousing of malt beverages, wines and/or distilled spirits within the town and the distribution of such to wholesale dealers or other importers within and without the state from the licensed location with the town.

(Ord. of 4-5-2007, §§ 6(E), 11(1))

Sec. 4-71. - Expiration and renewal.

- (a) The city license issued shall be valid only for the calendar year indicated thereon and shall expire at 12:00 midnight on December 31 of the year for which issued. A licensee that desires to continue in business during the next or subsequent calendar year must make a renewal application for such year on or before November 15, of the preceding year. Payment of license fees for renewal of

license may be made at the time of application or by December 31 and upon approval of renewal by the council and payment, the license will be issued.

- (b) All licenses issued pursuant to this chapter shall be valid only so long as the licensee is actively engaged in such business, with the exception of holidays, vacations, and periods of redecoration, and in the event the licensee shall cease to be actively engaged in such business such license shall be invalid and the licensee of such business shall immediately notify the town council and return his license thereto.
- (c) No license shall be issued for less than a calendar year, or remainder thereof, and in case of the revocation or surrender of such license before the expiration of such calendar year, the holder thereof shall not be entitled to receive any refund.

(Ord. of 4-5-2007, §§ 6(D), (F), 8(B), (B)(iv))

Sec. 4-72. - Transfer.

- (a) No town license may be transferred from one person to another or from one location to another without permission and approval of the town council upon receipt of written application made. Approvals as to any change shall be at discretion of the town council.
- (b) Each application for transfer of a license shall have attached thereto a completed copy of the notice of change of interest required by the state revenue commissioner. After receipt of such application, the town council shall notify such applicant within 20 days of any objection to the transfer, as set forth in the application. The license shall remain in effect pending approval of the transfer. Upon proper application, the town council may permit the license to be transferred upon payment of the original license fee required in this chapter, provided that the transferee meets all qualifications required by this chapter. Upon the death of any license holder, his personal representatives, his heirs, or if the license holder was an officer of a corporation, post, chapter or club, then any other officer thereof may continue to operate under the existing license for the balance of the year without paying a transfer fee, if the persons who will continue to operate under said license qualify as license holders under this chapter; or the license may be transferred to a transferee qualified under this chapter within 30 days after the condition of the estate of the deceased licensee will permit, provided that such transferee pays the original license fee required by this chapter.
- (c) Any licensee desiring to discontinue business at one location and commence business at some other location must make a complete new application for such location.

(Ord. of 4-5-2007, § 8(B)(i)—(iii))

Sec. 4-73. - Investigations.

Upon receipt by the town clerk of any application for an alcoholic beverage license or for the transfer of any license, he shall forward same to the chief of police for investigation who, following such investigation, shall attach thereto the entire police record of every person named in the application. The town clerk shall then submit the application with the report to the town council.

(Ord. of 4-5-2007, § 11(M))

Sec. 4-74. - Grounds for revocation or suspension.

The following shall be grounds for the suspension and/or revocation of an alcoholic beverage license. Whether or not such grounds exist shall be determined by the town council in its sole discretion.

- (1) The violation by the license holder or his employee of any state or federal law or regulation, except misdemeanors, not including drug-related misdemeanors, or any town ordinance, other

than traffic violations. The determination of whether any such violation has occurred shall be made by the town council and an actual conviction in a court for such offense shall not be necessary in order to suspend or revoke the license.

- (2) The failure of the license holder or his employee to report promptly to the police department any violation of law or municipal ordinance, breach of the peace, disturbance or altercation resulting in violence, occurring on the premises.
- (3) Any conduct on the part of the license holder or his employee contrary to the public welfare, safety, health or morals.
- (4) Operating or conducting the business in a manner contrary to the public welfare, safety, health or morals, or in such manner as to constitute a nuisance. Any combination totaling three or more of the following occurrences within any 30-day period shall constitute prima facie evidence that the license holder is operating or conducting an alcoholic beverage business in a manner which is contrary to the public welfare; safety, health or morals, or in such manner as to constitute a nuisance: violations of law, violations of municipal ordinances, breach of the peace, disturbance or altercation resulting in violence, all occurring on the premises. The business license holder shall, upon suspension for violations of this section, have the burden of proving such occurrences were beyond his control and not related to the operation of his business.
- (5) The violation of any state law or regulation or municipal ordinance pertaining to alcoholic beverages.

(Ord. of 4-5-2007, § 10(B))

Sec. 4-75. - Suspension procedures; closing of premises.

- (a) Any violation of this chapter that may warrant revocation of an alcoholic beverage license shall be reported by any person to the mayor (or in his absence the mayor pro tem) who shall have the power, in his discretion, to suspend the license for a period not to exceed 14 days pending a hearing before the town council on the question of whether or not the license shall be revoked for cause, in compliance with section 4-76.
- (b) Upon a charge that there has been a violation of this ordinance, the town council or the mayor (or in his absence the mayor pro tem) may order the place of business charged closed, pending a hearing on the charge.
- (c) The chief of police or mayor or, in his absence, the mayor pro tem, may close any location holding an alcoholic beverage license for a period not in excess of 24 hours in the event there shall occur on the premises any violation of law or municipal ordinance, breach of the peace, disturbance or altercation resulting in violence, or other occurrence which is contrary to the public health, welfare, safety or morals, when in the judgment of the chief of police, mayor or mayor pro tem such action is necessary to protect the public health, welfare, safety or morals.
- (d) The town council shall have the right to suspend any alcoholic beverage license pending the hearing provided for in section 4-76, where in the judgment of the town council, such action is necessary to protect the public health, safety, welfare and morals.
- (e) Any suspension as provided for herein shall be in writing, with the reasons therefor stated and shall be delivered to a license holder, registered agent, or person in charge of said business.

(Ord. of 4-5-2007, § 6(2))

Sec. 4-76. - Council hearings for denials or revocation.

Before the town council shall deny any application for a license or for the transfer of any license, or shall revoke any existing license, the applicant or licensee, as the case may be, shall be given notice in

writing from the town clerk to show cause before the town council at a time and place specified therein not less than three days but at the next regular city council meeting, why such application for license or for transfer of license should not be denied, or why such license should not be revoked, as the case may be, stating the grounds therefor, and at the appointed time and place the applicant or licensee shall have an opportunity to show cause, if any exist, why such application should not be denied or such license revoked, after which the town council shall take such action as it, in its judgment and discretion, shall deem warranted under the facts. The hearing herein provided for need not be at a regular meeting of the town council but may be at such time and place as shall be fixed in such notice. All decisions denying, approving, suspending or revoking any permit, license or application shall be in writing with the reasons therefor stated and mailed or delivered to the applicant. In addition, at any hearing as provided herein, the party afforded the hearing shall have the opportunity to present evidence and cross examine witnesses.

(Ord. of 4-5-2007, § 8(E))

Secs. 4-77—4-95. - Reserved.

ARTICLE III. - EXCISE TAX

Sec. 4-96. - Generally.

The payment of any tax for the privilege of engaging on the business of vending alcoholic beverages shall not prevent the town from increasing at any time, before or after the grant of a license, the amount of such tax, nor prevent the town from providing for and collecting any form of taxation of such business.

(Ord. of 4-5-2007, div. 1)

Sec. 4-97. - Malt beverages.

- (a) *Levied.* There is hereby levied a special tax in addition to the license fee required in this chapter on the sale of all malt beverages which are sold in the town, in the following amount:
- (1) Where malt beverages, commonly known as tap or draft beer, are sold in or from a barrel or bulk container, a tax of \$6.00 on each container sold containing not more than 15½ gallons and a proportionate tax at the same rate on all fractional parts of 15½ gallons.
 - (2) Where malt beverages are sold in bottles, cans, or other containers, except barrel or bulk containers, a tax of \$0.05 per 12 ounces and a proportionate tax at the same rate on all fractional parts of 12 ounces.
- (b) *Collection and payment.* The tax levied in this section shall be collected and paid as follows:
- (1) The tax shall be collected by wholesale distributors and paid to the town council by the wholesale distributors on all malt beverages sold to retailers in the incorporated area as follows: Each wholesale distributor selling, shipping or in any way delivering malt beverages to any retailer shall collect the special tax at the time of delivery and shall remit the tax, together with a summary of all deliveries to each retailer, on or before the tenth day of the following month. The \$0.05 per 12-ounce container shall be prorated so that each bottle or individual size container shall be taxed on the basis of \$0.05 per 12 ounces.
 - (2) It shall be unlawful and a violation of this chapter for any retailer to possess, own, hold, store, or display or sell any malt beverage on which such tax has not been paid.
 - (3) Each wholesale distributor shall furnish to the town council a summary of all purchase invoices for malt beverages sold to each retailer in the incorporated areas on or before the 15th of each month following such purchases. Such invoices shall show the amount of special tax paid.

(Ord. of 4-5-2007, div. 2)

State Law reference— Malt beverage excise tax, O.C.G.A. § 3-5-80 et seq.

Sec. 4-98. - Wine.

- (a) *Levy.* In addition to the annual license fee required in this chapter, there is hereby levied a special tax computed at the rate of \$0.22 per liter and a proportionate tax at the same rate on all fractional parts of a liter.
- (b) *Collection and payment.* The tax levied in this section shall be collected and paid as follows:
 - (1) The tax shall be collected by wholesale distributors and paid to the town council by the wholesale distributors on all wine sold to retailers in the incorporated area as follows: Each wholesale distributor selling, shipping or in any way delivering wine to any retailer shall collect the special tax at the time of delivery and shall remit the tax, together with a summary of all deliveries to each retailer, on or before the tenth day of the following month.
 - (2) It shall be unlawful and a violation of this chapter for any retailer to possess, own, hold, store, or display or sell any wine on which such tax has not been paid.
 - (3) Each wholesale distributor shall furnish to the town council a summary of all purchase invoices for wine sold to each retailer in the incorporated areas on or before the 15th day of each month following such purchases. Such invoices shall show the amount of special tax paid.

(Ord. of 4-5-2007, div. 2)

State Law reference— Wine excise taxation, O.C.G.A. § 3-6-60 et seq.

Chapter 6 - ANIMALS^[1]

Footnotes:

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State Law reference— Livestock running at large or straying, O.C.G.A. § 4-3-1 et seq.; permitting dogs in heat to roam or run free, O.C.G.A. § 4-8-6; Responsible Dog Ownership Law, O.C.G.A. § 4-8-20 et seq.; Georgia Animal Protection Act, O.C.G.A. § 4-11-1 et seq.; control of rabies, O.C.G.A. § 31-19-1 et seq.; cruelty to animals, O.C.G.A. § 16-12-4; liability of owner or keeper of vicious or dangerous animal for injuries caused by animal, O.C.G.A. § 51-2-6.

Sec. 6-1. - Dogs constituting nuisance.

- (a) *Compliance required.* It shall be unlawful for any person to violate or fail to comply with any provision of this section.
- (b) *Complaint of nuisance; hearing.* Any official or inhabitant of the town may direct a complaint of nuisance to the town police department, who shall investigate and may place the complaint before the municipal judge for a hearing upon the basis of the investigation. The municipal judge, after a ten-day notice to the party involved, shall hold a hearing thereon and, upon finding that a nuisance does exist, shall issue an order to the owner, agent in control of, or tenant in possession, stating that a nuisance has been found to exist and that the nuisance must be abated within so many hours or days as the municipal judge shall deem reasonable, having consideration for the nature of the nuisance and its effect on the public.

(c) *By town.*

- (1) In any case where the owner, agent or tenant fails to abate the nuisance in the time specified, or where the owner, agent or tenant cannot be served with notice, or where the nature of the nuisance is such, in the opinion of the municipal judge, that it must be immediately abated, the municipal judge may issue an order to the town police department directing the nuisance to be abated. The town police department, in such case, shall keep record of the expenses and cost of abating same, and the costs shall be billed against the owner, agent or tenant for collection as for town revenues.
- (2) Other town departments shall assist the enforcement officers as is necessary in abating nuisances hereunder.

(d) *Offense; penalty.*

- (1) It is hereby declared to be an offense for any owner, agent or tenant to maintain or allow a nuisance to exist. Each day a nuisance is continued shall constitute a separate offense. In addition to the remedies expressed herein, violations may be punishable as provided in section 1-7.
- (2) The following shall constitute a nuisance: maintaining any dog which is not tagged, any dog which is running loose, or generally classified as a disturbance.

(Ord. of 3-2-1989)

Chapter 8 - BUILDINGS AND BUILDING REGULATIONS

Sec. 8-1. - Technical codes.

There is hereby adopted the codes designated in O.C.G.A. § 8-2-20(9)(B)(i)(I)—(VIII) as now or hereafter modified by the state.

Sec. 8-2. - Building permit fees.

- (a) Building permit fees shall be as established by section 2-1. Any building or structure owned by and constructed for the use of a local, state or federal government unit, agency or authority shall be exempt from the payment of building permit fees, but shall be subject to all other provisions of the building code, including a building permit.
- (b) Schedule of building permit fees.
 - (1) On all buildings, structures or alterations requiring a building permit, the fee shall be paid as required at the time of filing of the application, in accordance with the schedule set forth in section 2-1.
 - (2) The permit fee shall be assessed according to the square feet of floor area, heated or unheated, for each separate floor or level including basements, canopies, carports, porches and other areas under a roof. A separate building permit shall be issued for each separate structure.

(Ord. of 11-9-2006, att.)

Sec. 8-3. - Water conservation restrictions for plumbing fixtures.

- (a) The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:
Commercial means any type of building other than residential.

Construction means the erection of a new building or the alteration of an existing building in connection with its repair or renovation or in connection with making an addition to an existing building and shall include the replacement of a malfunctioning, unserviceable, or obsolete faucet, showerhead, toilet, or urinal in an existing building.

Residential means any building or unit of a building intended for occupancy as a dwelling but shall not include a hotel or motel.

(b) The water efficiency requirements of the state construction code shall apply to any residential construction initiated after July 1, 1991, and to any commercial construction initiated after July 1, 1992, which involves the repair or renovation of or addition to any existing building when such repair or renovation of or addition to such existing building includes replacement of toilets or showers or both.

(c) New construction and the repair or renovation of an existing building shall be exempt from the requirements of subsection (b) of this section when:

The repair or renovation of the existing building does not include the replacement of the plumbing or sewage system servicing toilets, faucets or showerheads within such existing buildings;

(2) Such plumbing or sewage system within such existing building, because of its capacity, design, or installation would not function properly if the toilets, faucets or showerheads required by this ordinance were installed;

(3) Such system is a well or gravity flow from a spring and is owned privately by an individual for use in such individual's personal residence; or

(4) Units to be installed are:

a. Specifically designed for use by the handicapped;

b. Specifically designed to withstand unusual abuse or installation in a penal institution; or

c. Toilets for juveniles.

(d) The owner, or his agent, of a building undergoing new construction or repair or renovation who is entitled to an exemption as specified in subsection (c)(2), (3) or (4) of this section shall obtain the exemption by applying at the office of the town building inspector. A fee as set forth in section 2-1 shall be charged for the inspection and issuance of such exemption.

(e) This section shall be enforced by the office of the town building inspector. Citations for violation may be issued by the chief building inspector of the town.

(Ord. of 5-9-1991, §§ 1, 4—6)

Chapter 10 - ELECTIONS¹¹

Footnotes:

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State Law reference— Elections generally, O.C.G.A. § 21-2-1 et seq.

Sec. 10-1. - Mayor.

The qualified candidate receiving the most votes for mayor shall be elected to that post.

(Ord. of 11-4-1977(2), § 1)

Sec. 10-2. - Council.

In the race for council, the two qualified candidates receiving the most votes be elected to the two council seats.

(Ord. of 11-4-1977(2), § 2)

Chapter 12 - ENVIRONMENT AND NATURAL RESOURCES

ARTICLE I. - IN GENERAL

Secs. 12-1—12-18. - Reserved.

ARTICLE II. - WELLHEAD PROTECTION

Sec. 12-19. - Short title and purpose.

- (a) This article shall be known as the "Wellhead Protection Ordinance."
- (b) The purpose of this article is to ensure the provision of a safe and sanitary drinking water supply for the town by the establishment of wellhead protection zones surrounding the wellheads for all wells which are the supply sources for the town water system and by the designation and regulation of property uses and conditions which may be maintained within such zones.

(Ord. of 12-9-1999, § 1)

Sec. 12-20. - 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:

Hazardous waste or material means any waste or material which, because of its quantity, concentration or physical, chemical or infectious characteristics, may:

- (1) Cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness; or
- (2) Pose a substantial present or potential hazard to human health or to the environment when improperly treated, stored, transported, disposed of or otherwise managed.

Sanitary landfill means a disposal site where solid wastes, including putrescent wastes, or hazardous wastes, are disposed of on land by placing earth cover thereon.

Wellhead means the upper terminal of a well, including adapters, ports, seals, valves, and other attachments.

(Ord. of 12-9-1999, § 2)

Sec. 12-21. - Establishment of wellhead protection zone.

There is hereby established a use district to be known as a wellhead protection zone, identified and described as all the area within a circle, the center of which is the center of any town water supply wellhead and the radius of which is 100 feet.

(Ord. of 12-9-1999, § 3)

Sec. 12-22. - Permitted uses.

The following uses shall be permitted within wellhead protection zones:

- (1) Any use permitted within existing agricultural or single-family residential districts, except that the minimum residential lot size for a lot, any portion of which lies within the wellhead protection zone, shall not be less than one-half acre; and
- (2) Any other open land use where any building located on the property is incidental and accessory to the primary open land use.

(Ord. of 12-9-1999, § 4)

Sec. 12-23. - Prohibited uses.

The following uses or conditions shall be and are hereby prohibited within wellhead protection zones:

- (1) Surface use or storage of hazardous material, expressly including commercial use of agricultural pesticides;
- (2) Septic tanks or drain fields appurtenant thereto;
- (3) Impervious surfaces other than roofs of buildings, and streets, driveways, and walks serving buildings permitted under section 12-22;
- (4) Sanitary landfills;
- (5) Hazardous waste disposal sites;
- (6) Storm water infiltration basins;
- (7) Underground storage tanks.

(Ord. of 12-9-1999, § 5)

Sec. 12-24. - Administration.

The policies and procedures for administration of any wellhead protection zone established under this article, including, without limitation, those applicable to nonconforming uses, exceptions enforcement, and penalties, shall be the same as provided in the existing zoning ordinance for the town, as set forth in appendix A to this Code, as the same is presently enacted or may, from time to time, be amended.

(Ord. of 12-9-1999, § 6)

Secs. 12-25—12-51. - Reserved.

ARTICLE III. - WETLANDS PROTECTION

Sec. 12-52. - Purpose.

- (a) The wetlands in the town are indispensable and fragile natural resources with significant development constraints due to flooding, erosion, and soil limitations. In their natural state, wetlands serve man and nature. They provide habitat areas for fish, wildlife and vegetation; water quality maintenance and pollution control; flood control; erosion control; natural resource education;

scientific study; and open space and recreational opportunities. In addition, the wise management of forested wetlands is essential to the economic well-being of many communities within the state.

- (b) Nationally, a considerable number of these important natural resources have been lost or impaired by draining, dredging, filling, excavating, building, pollution and other acts. Piecemeal or cumulative losses will, over time, destroy additional wetlands. Damaging or destroying wetlands threatens public safety and the general welfare.
- (c) The purpose of this article is to promote wetlands protection, while taking into account varying ecological, economic development, recreational and aesthetic values. Activities that may damage wetlands should be located on upland sites to the greatest degree practicable as determined through a permitting process.

(Ord. of 6-7-2001, § I)

Sec. 12-53. - 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:

Generalized wetlands map means the current U.S. Fish and Wildlife Service National Wetlands Inventory Maps for the town.

Jurisdictional wetland means an area that meets the definitional requirements for wetlands as determined by the U.S. Army Corps of Engineers.

Jurisdictional wetland determination means a delineation of jurisdictional wetland boundaries by the U.S. Army Corps of Engineers, as required by section 404 of the Federal Clean Water Act, 33 USC 1344, as amended.

Regulated activity means any activity which will, or which may reasonably be expected to, result in the discharge of dredged or fill material into waters of the U.S. excepting those activities exempted in section 404 of the Federal Clean Water Act.

Wetlands means those areas that are inundated or saturated by surface water or groundwater 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. The ecological parameters for designating wetlands include hydric soils, hydrophytic vegetation, and hydrological conditions that involve a temporary or permanent source of water to cause soil saturation.

(Ord. of 6-7-2001, § II)

Sec. 12-54. - Establishment of the wetlands protection district.

- (a) The wetlands protection district is hereby established, which shall correspond to all lands within the jurisdiction of the town that are mapped as wetland areas by the U.S. Fish and Wildlife Service National Wetlands Inventory Maps. This map shall be referred to as the generalized wetlands map and is hereby adopted by reference and declared to be a part of this article, together with all explanatory matter thereon and attached thereto.
- (b) The generalized wetlands map does not represent the boundaries of jurisdictional wetlands within the town and cannot serve as a substitute for a delineation of wetland boundaries by the U.S. Army Corps of Engineers, as required by section 404 of the Federal Clean Water Act, as amended. Any local government action under this article does not relieve the landowner from federal or state permitting requirements.

(Ord. of 6-7-2001, § III)

Sec. 12-55. - Protection criteria.

Requirement for local permit or permission: No regulated activity will be permitted within the wetlands protection district without written permission or a permit from the town council. If the area proposed for development is located within 50 feet of a wetlands protection district boundary, as determined by the town council using the generalized wetlands map, a U.S. Army Corps of Engineers determination shall be required. If the Corps determines that wetlands are present on the proposed development site, the local permit or permission will not be granted until a section 404 permit or letter of permission is issued.

(Ord. of 6-7-2001, § IV)

Sec. 12-56. - Permitted uses.

The following uses shall be allowed as of right within the wetlands protection district to the extent that they are not prohibited by any other ordinance or law, including laws of trespass, and provided they do not require structures, grading, fill, draining, or dredging except as provided herein. The activities listed in this section are exempted from section 404 regulations provided they do not have impacts on a navigable waterway that would necessitate acquisition of an individual section 404 permit. However, under section 10 of the Rivers and Harbors Act, a permit may be required in some circumstances.

- (1) Conservation or preservation of soil, water, vegetation, fish and other wildlife, provided it does not affect waters of the state or of the United States in such a way that would require an individual section 404 permit.
- (2) Outdoor passive recreational activities, including fishing, bird watching, hiking, boating, horseback riding, and canoeing.
- (3) Forestry practices applied in accordance with best management practices approved by the state forestry commission and as specified in section 404 of the Clean Water Act.
- (4) The cultivation of agricultural crops. Agricultural activities shall be subject to best management practices approved by the state department of agriculture.
- (5) The pasturing of livestock, provided that riparian wetlands are protected, that soil profiles are not disturbed and that approved agricultural best management practices are followed.
- (6) Education, scientific research, and nature trails.

(Ord. of 6-7-2001, § V)

Sec. 12-57. - Prohibited uses.

The following uses are not permitted within the wetlands protection district:

- (1) Receiving areas for toxic or hazardous waste or other contaminants;
- (2) Hazardous or sanitary waste landfills.

(Ord. of 6-7-2001, § VI)

Sec. 12-58. - Administration and enforcement procedures.

No building permits shall be issued for a designated wetlands area until prior review and approval has been given by the town clerk.

- (1) *Site plans.* Application for a local development permit within the town shall include a site plan, drawn at a scale of one inch equals fifty feet, with the following information:
 - a. A map of all planned excavation and fill, including calculations of the volume of cut and fill involved, cross sectional drawings showing existing and proposed grades. Elevations, horizontal scale and vertical scale must be shown on the cross sectional drawings.
 - b. A map of any wetland boundaries occurring within the site must be provided. This boundary may be included on other maps provided by the applicant.
 - c. Location, dimensions and areas of all impervious surfaces, both existing and proposed, on the site and adjacent to the site for a distance of 200 feet.
 - d. The orientation and distance from the boundaries of the proposed site to the nearest bank of an affected perennial stream or water body.
 - e. Elevations of the site and adjacent lands within 200 feet of the site at contour intervals of no greater than two feet; and no greater than one foot for slopes less than or equal to two percent.
 - f. Location and detailed design of any spill and leak collection systems designed for the purpose of containing accidentally released hazardous or toxic materials.
 - g. All proposed temporary disruptions or diversions of local hydrology.
- (2) *Activities to comply with site plan.* All development activities or site work conducted after approval of the site plan shall conform with the specifications of said site plan. Significant changes to the site plan that would alter the amount and velocity of storm water runoff from the site, increase the amount of impervious surface within the development, alter the overall density of development, result in a considerable increase in the amount of excavation, fill or removal of the overall appearance of the development as proposed, can be amended only with the approval of the town council. Minor changes, such as the realignment of streets or minor alterations to drainage structures and other infrastructure to meet unexpected conditions, are exempted from this requirement.
- (3) *Exemptions to site plan requirements.* The following activities and developments are exempt from the requirement for detailed site plans:
 - a. Single-family detached homes constructed within a subdivision of fewer than five parcels.
 - b. Repairs to a facility that is part of a previously approved and permitted development.
 - c. Construction of minor structures, such as sheds or additions to single-family residences.
- (4) *Review procedures.* The application shall be made to the town council and will be reviewed within 15 days. At the time of the application, the applicant shall pay a filing fee as specified in section 2-1. Filing fees may be required to evaluate the application. This fee may be used to retain expert consultants who will provide services pertaining to functional assessment, mitigation, and wetland boundary determinations, as deemed necessary by the town council. The review period shall include the preparation of findings (approval, approval with conditions, or disapproval) by the town council. The applicant will receive written notification of the findings of the town council. If the review process is not completed within 30 days, the application is considered to be approved. Decisions of the town council may be appealed to the superior court.
- (5) *Duration of permit validity.*
 - a. If construction described in the development permit has not commenced within 12 months from the date of issuance, the permit shall expire.
 - b. If construction described in the development permit is suspended or abandoned after work has commenced, the permit shall expire 12 months after the date that work ceased.

- c. Written notice of pending expiration of the development permit shall be issued by the town council.
- (6) *Penalties.*
- a. When a building or other structure has been constructed in violation of this section, the violator may be required to remove the structure at the discretion of the town council.
 - b. When removal of vegetative cover, excavation, or fill has taken place in violation of this section, the violator may be required to restore the affected land to its original contours and to restore vegetation, as far as practicable, at the discretion of the town council.
 - c. If the town council discovers a violation of this article that also constitutes a violation of any provision of the Clean Water Act as amended, the town council shall issue written notification of the violation to the U.S. Environmental Protection Agency, the U.S. Army Corps of Engineers, and the landowner.
- (7) *Suspension, revocation.* The town council may suspend or revoke a permit if it finds that the applicant has not complied with the conditions or limitations set forth in the permit or has exceeded the scope of the work set forth in the permit. The town council shall cause notice of denial, issuance, conditional issuance, revocation or suspension of a permit to be published in a daily newspaper having a broad circulation in the area where the wetland is located.
- (8) *Judicial review.*
- a. *Jurisdiction.* All final decisions of the town council concerning denial, approval or conditional approval of a permit shall be reviewable in the superior court.
 - b. *Alternative actions.* Based on these proceedings and the decision of the superior court, the town council or its designee may, within the time specified by the superior court, elect to:
 - 1. Institute negotiated purchase or condemnation proceedings to acquire an easement or fee interest in the applicant's land;
 - 2. Approve the permit application with lesser restrictions or conditions (i.e., grant a variance); or
 - 3. Institute other appropriate actions ordered by the court that fall within the jurisdiction of the town council.
- (9) *Amendments.* These regulations and the current U.S. Fish and Wildlife Service National Wetlands Inventory Map may from time to time be amended in accordance with procedures and requirements in the general statutes and as new information becomes available.
- (10) *Relief assessment.* Assessors and boards of assessors shall consider requirements of these regulations in determining the fair market value of land.
- (11) *Separability and abrogation.* All sections and subsections of this article are considered separate and distinct. Should any section, subsection, paragraph or part of this article be declared by a court of jurisdiction to be invalid for any reason, it shall not invalidate any other section, subsection, paragraph, or part of this article.

(Ord. of 6-7-2001, § VII)

Secs. 12-59—12-89. - Reserved.

ARTICLE IV. - OUTDOOR WATERING OF LANDSCAPE

Sec. 12-90. - Restriction.

Outdoor watering for purposes of planting, growing, managing, or maintaining ground cover, trees, shrubs, or other plants in the incorporated area of the town may occur only between the hours of 4:00 p.m. and 10:00 a.m., except as provided hereinafter.

(Ord. of 1-6-2011, § 1)

Sec. 12-91. - Exceptions to water restrictions.

There shall be no limitation upon the following outdoor water uses:

- (1) Commercial raising, harvesting, or storing of crops; feeding, breeding, or managing livestock or poultry; the commercial production or storing of 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, ratites, and turkeys; producing plants, trees, fowl, or animals; or the commercial production of aqua cultural, horticultural, dairy, livestock, poultry, eggs and apiarian products or as otherwise defined in O.C.G.A. § 1-3-3;
- (2) Capture and reuse of cooling system condensate or storm water in compliance with town resolutions and ordinances and state guidelines;
- (3) Reuse of gray water in compliance with O.C.G.A. § 31-3-5.2 and applicable local board of health regulations;
- (4) Use of reclaimed wastewater by a designated user for a system permitted by the environmental protection division of the state department of natural resources to provide reclaimed wastewater;
- (5) Watering personal food gardens;
- (6) Watering new and replanted plant, seed, or turf in landscapes, golf courses, or sports turf fields during installation and for a period of 30 days immediately following the date of installation;
- (7) Drip irrigation or irrigation using soaker hoses;
- (8) Hand watering with a hose with automatic cutoff or hand held;
- (9) Use of water withdrawn from private water wells or surface water by an owner or operator of property if such well or surface water is on said property;
- (10) Watering horticultural crops held for sale, resale or installation;
- (11) Watering athletic fields, golf courses, or public turf grass recreational areas;
- (12) Installation, maintenance, or calibration of irrigation systems; or
- (13) Hydroseeding.

(Ord. of 1-6-2011, § 2)

Sec. 12-92. - Enforcement.

- (a) No person shall use or allow the use of water in violation of the restrictions on outdoor water use contained in this article.
- (b) The town law enforcement officers or other designated agent shall be the enforcement authority for this article. The mayor may also authorize other departments or agents as may be deemed necessary to support enforcement of this article.

(Ord. of 1-6-2011, § 3)

Chapter 14 - FIRE PREVENTION AND PROTECTION

ARTICLE I. - IN GENERAL

Secs. 14-1—14-18. - Reserved.

ARTICLE II. - VOLUNTEER FIRE DEPARTMENT

Sec. 14-19. - Established.

There is hereby established a fire department which will be operated under the direction of a fire chief who shall be elected by the volunteers of the fire department and who shall report to the town council. The fire chief shall supervise and operate the fire department under the rules and regulations adopted by the town council and shall enforce the International Fire Code and fire safety regulations of the town.

(Ord. of 5-11-1989, § I)

Sec. 14-20. - Fire protection outside the corporate limits of the town.

The fire department shall be permitted to answer calls within a five-mile radius pursuant to contracts with the county. It is provided that at least one fire truck remain inside the corporate limits so as to provide protection for residents of the town.

(Ord. of 5-11-1989, § IV)

Sec. 14-21. - Operations.

The fire department shall operate under a regular operating budget in the general fund of the town. In addition, monies received by the volunteers will be accounted for in a special fund by the town council. Expenditures from said fund shall be subject to approval by the volunteers.

(Ord. of 5-11-1989, § V)

Secs. 14-22—14-45. - Reserved.

ARTICLE III. - FIRE PREVENTION CODE

Sec. 14-46. - Standards and application thereof.

The provisions of the International Fire Code, this article, rules and regulations, and other fire protection ordinances of the town, shall apply equally to both public and private property, and shall apply to all structures and their occupancies, except as otherwise specified.

(Ord. of 6-8-2006)

Sec. 14-47. - Exercise of police power.

This act shall be deemed an exercise of the police powers of the town for the preservation and protection of the public health, peace, safety, and welfare, and all the provisions of this article shall be liberally construed for that purpose.

(Ord. of 6-8-2006)

Sec. 14-48. - Applicability of provisions.

The provisions of this article shall apply equally to both public and private property, and shall apply to all structures and their occupancies, except as otherwise specified.

(Ord. of 6-8-2006)

Sec. 14-49. - Violations.

It shall be unlawful for any person to violate this article, to permit or maintain such a violation, to refuse to obey any provision thereof, or to fail or refuse to comply with any such provision or regulation. Proof of such unlawful act or failure shall be deemed prima facie evidence that such act is that of the owner or other person in control of the premises. Prosecution or lack thereof of either the owner, occupant, or the person in charge shall not be deemed to relieve any of the others.

(Ord. of 6-8-2006)

Sec. 14-50. - Penalties for violations.

Any person who shall violate any of the provisions of the International Fire Code, this article, or other fire-related ordinance or rule or regulation; or shall fail to comply therewith, or shall violate or fail to comply with any order made thereunder, or shall build in violation of any details, statements, specifications, or plans submitted or approved thereunder; or shall operate not in accordance with the provisions of any certificate, permit, or approval issued thereunder; and from which no appeal has been taken; or shall fail to comply with such order as affirmed or modified by the town council or by a court of competent jurisdiction within the time fixed herein shall severally for each and every violation and noncompliance, respectively, be guilty of a misdemeanor. The imposition of a penalty for any violation shall not excuse the violation nor excuse required correction or remedy of such violations or defects within a reasonable time, and when not otherwise specified, the application of the above penalty shall not be held to prevent the enforced removal of prohibited conditions.

(Ord. of 6-8-2006)

Sec. 14-51. - Inspection.

- (a) The fire chief, police chief or their designee shall inspect or cause to be inspected all premises on a periodic basis for compliance with the International Fire Code, this article, rules and regulations and other fire protection ordinances of the town, and shall make such orders as may be necessary for the enforcement of the laws and ordinances governing the same.
- (b) Additionally, upon complaint submitted in writing alleging a failure to comply with the International Fire Code, this article, and fire-related rules, regulations and ordinances, the fire chief, police chief or their designee may enter in or upon any building or premises complained of for the purpose of investigating the complaint.

(Ord. of 6-8-2006)

Sec. 14-52. - Order to remove fire hazard.

Whenever the fire chief, police chief or their designee shall find in any building, or upon any premises or other places, combustible or explosive matter or dangerous accumulations of rubbish or unnecessary accumulation of wastepaper, boxes, shavings, or any highly flammable material especially liable of fire, and which is so situated as to endanger property; or shall find obstructions to or on fire escapes, stairs, passageways, doors or windows, liable to interfere with the operations of the fire department or egress of occupants in case of fire, the fire chief, police chief or their designee shall order the same to be removed or remedied, and such order shall forthwith be complied with by the owner or occupant of such premises or buildings, subject to the appeals procedure provided for in the International Fire Code. Any owner or occupant failing to comply with such order within a reasonable period after the service of the said order shall be liable to penalties as hereinafter provided.

(Ord. of 6-8-2006)

Sec. 14-53. - Service of order to remove hazard.

The service of any such order may be made upon the occupant or owner of the premises to whom it is directed, either by delivering a copy of same to such occupant or owner personally, or leaving it with any person in charge of the premises, or, in case no such person is found upon the premises, by affixing a copy thereof in a conspicuous place on the door to the entrance of said premises. Such order may be served either by delivering to and leaving with said person a copy of the order, or, if such owner is absent from the jurisdiction of the officer making the order, by mailing such copy by certified mail to the owner's last known address.

(Ord. of 6-8-2006)

Sec. 14-54. - Submission of plans and specifications required.

Owners, their agents or designees, of all buildings and tenant spaces covered by this article are required to submit plans and specifications of the project to the town council. The town council shall approve prior to construction.

(Ord. of 6-8-2006)

Sec. 14-55. - Outdoor burning restrictions.

- (a) No open burning shall be conducted in violation of state department of natural resources environmental protection division regulations, chapter 391-3-1, as revised. In addition to any environmental protection division authorizations which may be required, no open burning shall take place in the town except as otherwise provided herein. The fire chief, police chief or their designee may prohibit any or all burning when local conditions make such fires hazardous.
- (b) Open burning, below the elevation of 2,000 feet, may be done with the appropriate permit for the open burning of leaves in areas where public collection of leaves is not provided, and any other organic material by the owner or person in control of a residential occupancy, provided such burning takes place after sunrise with all fires to be completely extinguished one hour before sunset. The fire shall not create a nuisance to neighbors nor be started during an air pollution advisory in effect or in periods of high winds or any other climatic conditions that would create a hazardous condition. All fires, of any kind, must be attended by responsible persons over 15 years of age. There will be no open burning above the elevation of 2,000 feet.
- (c) Exceptions for open burning without a permit.
 - (1) Outdoor cooking of food for immediate human consumption.

- (2) Small outdoor fires using untreated wood are allowed to keep persons warm for working outdoors. Said fire shall be in a secure container and where no nuisance or public safety hazard is created.
- (3) Fires set for the purpose of firefighting training.

The burning of tires, asphaltic materials, heavy oils, petroleum based products, rubber or plastic products, pressure treated wood and household garbage is prohibited under all circumstances.

(Ord. of 6-8-2006)

Sec. 14-56. - Permits.

The appropriate permits for burning below the elevation of 2,000 feet shall be obtained from the Georgia Forestry Commission.

(Ord. of 6-8-2006)

Chapter 16 - FLOODS

ARTICLE I. - IN GENERAL

Secs. 16-1—16-18. - Reserved.

ARTICLE II. - FLOOD DAMAGE PREVENTION

DIVISION 1. - GENERALLY

Sec. 16-19. - 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:

Accessory structure means a structure having minimal value and used for parking, storage and other non-habitable uses, such as garages, carports, storage sheds, pole barns, hay sheds and the like.

Addition (to an existing building) means any walled and roofed expansion to the perimeter of a building in which the addition is connected by a common load-bearing wall other than a firewall. Any walled and roofed addition, which is connected by a firewall or is separated by an independent perimeter load-bearing wall, shall be considered new construction.

Appeal means a request for a review of the mayor's interpretation of any provision of this article.

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 means the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. In the absence of official designation by the Federal Emergency Management Agency, areas of special flood hazard shall be those designated by the local community and referenced in section 16-25.

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

Base flood elevation (BFE) means the elevation shown on the flood insurance rate map for Zones AE, AH, A1-A30, AR, AR/A, AR/AE, AR/A1-A30, AR/AH, AR/AO, V1-V30, and VE that indicates the water surface elevation resulting from a flood that has a one percent chance of equaling or exceeding that level 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.

Critical facility means any public or private facility, which, if flooded, would create an added dimension to the disaster or would increase the hazard to life and health. Critical facilities include:

- (1) Structures or facilities that produce, use, or store highly volatile, flammable, explosive, toxic, or water-reactive materials;
- (2) Hospitals and nursing homes, and housing for the elderly, which are likely to contain occupants who may not be sufficiently mobile to avoid the loss of life or injury during flood and storm events;
- (3) Emergency operation centers or data storage centers which contain records or services that may become lost or inoperative during flood and storm events; and
- (4) Generating plants, and other principal points of utility lines.

Development means any manmade 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 storage of materials or equipment.

Elevated building means a non-basement building built to have the lowest floor of the lowest enclosed area elevated above the ground level by means of fill, solid foundation perimeter walls, pilings, columns, piers, or shear walls adequately anchored so as not to impair the structural integrity of the building during a base flood event.

Existing construction means, for the purposes of determining rates, structures for which the start of construction commenced before August 13, 1982, the effective date of the initial FIRM for that community.

Existing manufactured home park or subdivision means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and final site grading or the pouring of concrete pads) is completed before August 13, 1982, 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 and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) The overflow of inland or tidal waters; or
- (2) 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 means the official report by the Federal Insurance Administration evaluating flood hazards and containing flood profiles and water surface elevations of the base flood.

Floodplain means any land area susceptible to flooding.

Floodproofing means any combination of structural and non-structural additions, changes, or adjustments to structures, which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

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.

Freeboard means a factor of safety usually expressed in feet above a flood level for purposes of floodplain management. Freeboard tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, bridge openings, and the hydrological effect of urbanization of the watershed.

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:

- (1) Listed individually in the National Register of Historic Places (a listing maintained by the U.S. Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- (2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- (3) 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
- (4) Individually listed on a local inventory of historic places and determined as eligible by communities with historic preservation programs that have been certified either:
 - a. By an approved state program as determined by the Secretary of the Interior; or
 - b. Directly by the Secretary of the Interior in states without approved programs.

Lowest floor means the lowest floor of 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 enclosure is not built so as to render the structure in violation of other provisions of this article.

Manufactured home means a building, transportable in one or more sections, built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term "manufactured home" 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.

Manufactured home park or subdivision means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

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 the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community's flood insurance rate map are referenced.

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

New construction means, for the purposes of determining insurance rates, structures for which the start of construction commenced after August 13, 1982, the effective date of the initial FIRM, and includes any subsequent improvements to such structures. For floodplain management purposes, the term "new construction" means structures for which the start of construction commenced after June 2, 2009, the effective date of the first floodplain management ordinance adopted by the community, and includes any subsequent improvements to such structures.

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 after June 2, 2009.

North American Vertical Datum (NAVD) has replaced the National Geodetic Vertical Datum of 1929 in existing and future FEMA flood modernization maps.

Recreational vehicle means a vehicle, which is:

- (1) Built on a single chassis;
- (2) 400 square feet or less when measured at the largest horizontal projection;
- (3) Designed to be self-propelled or permanently towable by a light-duty truck; and
- (4) 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. Permanent construction does not include initial land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of 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 article 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.

Subdivision means the division of a single lot into two or more lots for the purpose of sale or development.

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 reconstruction, rehabilitation, addition, or other improvement of a structure, taking place during a five-year period, in which the cumulative cost equals or exceeds 50 percent of the market value of the structure prior to the start of construction of the improvement. Note: The market value of the structure should be the appraised value of the structure prior to the start of the initial repair or improvement, or in the case of damage, the value of the structure prior to the damage occurring. The term "substantial improvement" 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 "substantial improvement" does not, however, include those improvements of a structure required to comply with existing violations of state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions and which have been identified

by the code enforcement official, and not solely triggered by an improvement or repair project, or any alteration of a historic structure provided that the alteration will not preclude the structure's continued designation as a historic structure.

Substantially improved existing manufactured home parks or subdivisions is where the repair, reconstruction, rehabilitation or improvement of the streets, utilities and pads equals or exceeds 50 percent of the value of the streets, utilities and pads before the repair, reconstruction or improvement commenced.

Variance means a grant of relief from the requirements of this article, which permits construction in a manner otherwise prohibited by this article.

Violation means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, or other certifications, or other evidence of compliance required by this article is presumed to be in violation until such time as that documentation is provided.

Sec. 16-20. - Authorization.

Ga. Const. art. IX, § II and O.C.G.A. § 36-1-20(a) have delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry.

Sec. 16-21. - Findings of fact.

- (a) The flood hazard areas of the town are subject to 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.
- (b) 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 obstructions in floodplains causing increases in flood heights and velocities.

Sec. 16-22. - Statement of purpose.

It is the purpose of this article 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 filling, grading, dredging and other development which may increase flood damage or erosion;
- (4) Prevent or regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands;
- (5) Control the alteration of natural floodplains, and stream channels, and natural protective barriers, which are involved in the accommodation of floodwaters.

Sec. 16-23. - Objectives.

The objectives of this article 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-prone areas in such a manner as to minimize 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 ensure that potential homebuyers are notified that property is in a flood area.

Sec. 16-24. - Lands to which this article applies.

This article shall apply to all areas of special flood hazard within the jurisdiction of the town.

Sec. 16-25. - Basis for area of special flood hazard.

- (a) The areas of special flood hazard identified by the Federal Emergency Management Agency in its flood insurance study (FIS), dated June 2, 2009, with accompanying maps and other supporting data and any revision thereto, are adopted by reference and declared a part of this article.
- (b) For those land areas acquired by a municipality through annexation, the current effective FIS dated June 2, 2009, with accompanying maps and other supporting data and any revision thereto, for Habersham County are hereby adopted by reference.
- (c) Areas of special flood hazard may also include those areas known to have flooded historically or defined through standard engineering analysis by governmental agencies or private parties but not yet incorporated in a FIS.
- (d) The repository for public inspection of the flood insurance study (FIS), accompanying maps and other supporting data is located at: 255 Main Street, Tallulah Falls, GA 30573.

Sec. 16-26. - Establishment of development permit.

A development permit shall be required in conformance with the provisions of this article prior to the commencement of any development activities.

Sec. 16-27. - Compliance.

No structure or land shall hereafter be located, extended, converted or altered without full compliance with the terms of this article and other applicable regulations.

Sec. 16-28. - Abrogation and greater restrictions.

This article is not intended to repeal, abrogate, or impair any existing ordinance, easements, covenants, or deed restrictions. However, where this article and another ordinance conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

Sec. 16-29. - Interpretation.

In the interpretation and application of this article all provisions shall be:

- (1) Considered as minimum requirements;
- (2) Liberally construed in favor of the town council; and
- (3) Deemed neither to limit nor repeal any other powers granted under state statutes.

Sec. 16-30. - Warning and disclaimer of liability.

The degree of flood protection required by this article 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 manmade or natural causes. This article 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 article shall not create liability on the part of the town or by any officer or employee thereof for any flood damages that result from reliance on this article or any administrative decision lawfully made hereunder.

Sec. 16-31. - Penalties for violation.

Failure to comply with the provisions of this article or with any of its requirements, including conditions and safeguards established in connection with grants of variance or special exceptions, shall constitute a violation. Any person who violates this article or fails to comply with any of its requirements shall, upon conviction thereof, be guilty of an offense.

Secs. 16-32—16-50. - Reserved.

DIVISION 2. - ADMINISTRATION

Sec. 16-51. - Designation of administrator.

The mayor is hereby appointed to administer and implement the provisions of this article.

Sec. 16-52. - Permit procedures.

Application for a development permit shall be made to the mayor on forms furnished by the community prior to any development activities, and may include, but not be limited to, the following: plans in duplicate drawn to scale showing the elevations of the area in question and the nature, location, dimensions, of existing or proposed structures, earthen fill placement, 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 the lowest floor, including basement, of all proposed structures;
- b. Elevation in relation to mean sea level to which any nonresidential structure will be floodproofed;
- c. Design certification from a registered professional engineer or architect that any proposed nonresidential floodproofed structure will meet the floodproofing criteria of section 16-83(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.*

- a. For all new construction and substantial improvements, the permit holder shall provide to the administrator an as-built certification of the regulatory floor elevation or floodproofing level immediately after the lowest floor or floodproofing is completed. Any lowest floor certification made relative to mean sea level shall be prepared by or under the direct supervision of a registered land surveyor or professional engineer and certified by same. When floodproofing is utilized for nonresidential structures, said certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same.
- b. Any work undertaken prior to submission of these certifications shall be at the permit holder's risk.
- c. The mayor shall review the certification data submitted according to subsection (2)a of this section. 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 or failure to make said corrections required hereby shall be cause to issue a stop work order for the project.

Sec. 16-53. - Duties and responsibilities of the administrator.

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

- (1) Review proposed development to ensure that the permit requirements of this article have been satisfied.
- (2) Review proposed development to ensure that all necessary permits have been received from governmental agencies from which approval is required by federal or state law, including section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 USC 1334. Require that copies of such permits be provided and maintained on file.
- (3) Review all permit applications to determine whether proposed building sites will be reasonably safe from flooding.
- (4) When base flood elevation data or floodway data have not been provided in accordance with section 16-25, then the mayor shall obtain, review and reasonably utilize any base flood elevation and floodway data available from federal, state or other sources in order to administer the provisions of division 3 of this article.
- (5) Review 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 16-52(2).
- (6) Review and record the actual elevation, in relation to mean sea level to which any new or substantially improved structures have been floodproofed, in accordance with section 16-52(2).
- (7) When floodproofing is utilized for a structure, the mayor shall obtain certification of design criteria from a registered professional engineer or architect in accordance with section 16-52(1)c and section 16-83(2) or 16-85(2).
- (8) Make substantial damage determinations following a flood event or any other event that causes damage to structures in flood hazard areas.
- (9) Notify adjacent communities and the state 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 (FEMA).
- (10) For any altered or relocated watercourse, submit engineering data/analysis within six months to FEMA to ensure accuracy of community flood maps through the letter of map revision process and ensure flood carrying capacity of any altered or relocated watercourse is maintained.
- (11) Where interpretation is needed as to the exact location of boundaries of the areas of special flood hazard (for example, where there appears to be a conflict between a mapped boundary and actual field conditions), make the necessary interpretation. Any person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this division.
- (12) All records pertaining to the provisions of this division shall be maintained in the office of the town shall be open for public inspection.

Sec. 16-54. - Variance procedures.

- (a) The town council shall hear and decide requests for appeals or variance from the requirements of this article.
- (b) The town council 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 article.

- (c) Any person aggrieved by the decision of the town council may appeal such decision to the superior court of the county, as provided in O.C.G.A. § 5-4-1.
- (d) 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 a historic structure and the variance is the minimum to preserve the historic character and design of the structure.
- (e) 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.
- (f) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- (g) In reviewing such requests, the town council shall consider all technical evaluations, relevant factors, and all standards specified in this and other sections of this article.
- (h) Conditions for variances.
 - (1) A variance shall be issued only when there is:
 - a. A finding of good and sufficient cause;
 - b. A determination that failure to grant the variance would result in exceptional hardship; and
 - c. 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.
 - (2) The provisions of this article 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.
 - (3) 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 to life and property resulting from the reduced lowest floor elevation.
 - (4) The mayor shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency upon request.
- (i) Upon consideration of the factors listed in this section and the purposes of this article, the town council may attach such conditions to the granting of variances as it deems necessary to further the purposes of this article.

Secs. 16-55—16-81. - Reserved.

DIVISION 3. - FLOOD HAZARD REDUCTION

Sec. 16-82. - General standards.

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 or substantial improvements of existing structures shall be constructed by methods and practices that minimize flood damage;
- (4) Elevated buildings all new construction or substantial improvements of existing structures that include any fully enclosed area located below the lowest floor 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 article, 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) All heating and air conditioning equipment and components (including ductwork), 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 of flooding;
- (6) 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;
- (7) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system;
- (8) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into floodwaters;
- (9) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding; and
- (10) Any alteration, repair, reconstruction or improvement to a structure, which is not compliant with the provisions of this article, shall be undertaken only if the nonconformity is not furthered, extended or replaced.

Sec. 16-83. - Specific standards.

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

- (1) *New construction and/or substantial improvements.*
 - a. Where base flood elevation data are available, new construction and/or substantial improvement of any 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 equalization of flood hydrostatic forces on both sides of exterior walls shall be provided in accordance with standards of section 16-82(4).

- b. All heating and air conditioning equipment and components (including ductwork), all electrical, ventilation, plumbing, and other service facilities shall be elevated at or above one foot above the base flood elevation.
- (2) *Nonresidential construction.* New construction and/or the substantial improvement of any structure located in A1-30, AE, or AH zones may be floodproofed in lieu of elevation. The structure, together with attendant utility and sanitary facilities, must be designed to be watertight to one foot above the base flood elevation, with walls substantially impermeable to the passage of water, and structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. A registered professional engineer or architect shall certify that the 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 in section 16-53(7).
- (3) *Standards for manufactured homes and recreational vehicles.* Where base flood elevation data are available:
- a. All manufactured homes placed and/or substantially improved on individual lots or parcels, in new and/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 and/or substantially improved in 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 an adequately anchored foundation system to resist flotation, collapse and lateral movement.
 - d. All recreational vehicles placed on sites must either:
 - 1. Be on the site for fewer than 180 consecutive days;
 - 2. 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
 - 3. The recreational vehicle must meet all the requirements for new construction, including the anchoring and elevation requirements of subsections (3)a through c of this section.
- (4) *Floodway.* Located within areas of special flood hazard established in section 16-25, are areas designated as floodway. A floodway may be an extremely hazardous area due to velocity floodwaters, debris or erosion potential. In addition, the area must remain free of encroachment in order to allow for the discharge of the base flood without increased flood heights. 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 must provide supporting technical data and certification thereof.

- b. Only if subsection (4)a of this section is satisfied, then any new construction or substantial improvement shall comply with all other applicable flood hazard reduction provisions of this division.

Sec. 16-84. - Building standards for streams without established base flood elevations and/or floodways (A zones).

Located within the areas of special flood hazard established in section 16-25, where streams exist but no base flood data have been provided (A zones), or where base flood data have been provided but a floodway has not been delineated, the following provisions apply:

- (1) When base flood elevation data or floodway data have not been provided in accordance with section 16-25, then the mayor shall obtain, review, and reasonably utilize any scientific or historic base flood elevation and floodway data available from a federal, state, or other source, in order to administer the provisions of this division. Only if data are not available from these sources, then the following provisions (subsections (2) and (3) of this section) shall apply.
- (2) No encroachments, including structures or fill material, shall be located within an area equal to the width of the stream or 20 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 more than a one-foot increase in flood levels during the occurrence of the base flood discharge.
- (3) 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 feet above the highest adjacent grade at the building site. (Note: require the lowest floor to be elevated one foot above the estimated base flood elevation in A zone areas where a limited detail study has been completed). Openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided in accordance with standards of section 16-82(4).
 - a. All heating and air conditioning equipment and components (including ductwork), all electrical, ventilation, plumbing, and other service facilities shall be elevated no less than three feet above the highest adjacent grade at the building site.
 - b. The mayor shall certify the lowest floor elevation level and the record shall become a permanent part of the permit file.

Sec. 16-85. - Standards for areas of special flood hazard (Zone AE) with established base flood elevations without designated floodways.

Located within the areas of special flood hazard established in section 16-25, where streams with base flood elevations are provided but no floodways have been designated, (Zone AE) the following provisions apply:

- (1) No encroachments, including fill material, new structures or substantial improvements shall be located within areas of special flood hazard, unless certification by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community. The engineering certification should be supported by technical data that conforms to standard hydraulic engineering principles.
- (2) New construction or substantial improvements of buildings shall be elevated or floodproofed to elevations established in accordance with section 16-83.

Sec. 16-86. - Standards for areas of shallow flooding (AO zones).

Areas of special flood hazard established in section 16-25 may include designated AO shallow flooding areas. These areas have base flood depths of one to three feet above ground, with no clearly defined channel. The following provisions apply:

- (1) All new construction and substantial improvements of residential and nonresidential structures shall have the lowest floor, including basement, elevated to the flood depth number specified on the flood insurance rate map (FIRM), above the highest adjacent grade. If no flood depth number is specified, the lowest floor, including basement, shall be elevated at least three feet above the highest adjacent grade. Openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided in accordance with standards of section 16-82(4). The mayor shall certify the lowest floor elevation level and the record shall become a permanent part of the permit file.
- (2) New construction or the substantial improvement of a nonresidential structure may be floodproofed in lieu of elevation. The structure, together with attendant utility and sanitary facilities, must be designed to be watertight to the specified FIRM flood level plus one foot, above highest adjacent grade, 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 as required in section 16-52(1)c and (2).
- (3) Drainage paths shall be provided to guide floodwaters around and away from any proposed structure.

Sec. 16-87. - Standards for subdivisions.

- (a) All subdivision and/or development proposals shall be consistent with the need to minimize flood damage.
- (b) All subdivision and/or development proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage.
- (c) All subdivision and/or development proposals shall have adequate drainage provided to reduce exposure to flood hazards.
- (d) For subdivisions and/or developments greater than 50 lots or five acres, whichever is less, base flood elevation data shall be provided for subdivision and all other proposed development, including manufactured home parks and subdivisions. Any changes or revisions to the flood data adopted herein and shown on the FIRM shall be submitted to FEMA for review as a conditional letter of map revision (CLOMR) or conditional letter of map amendment (CLOMA), whichever is applicable. Upon completion of the project, the developer is responsible for submitting the as-built data to FEMA in order to obtain the final LOMR.

Sec. 16-88. - Standards for critical facilities.

- (a) Critical facilities shall not be located in the 100-year floodplain or the 500-year floodplain.
- (b) All ingress and egress from any critical facility must be protected to the 500-year flood elevation.

Chapter 18 - LICENSES, TAXATION AND MISCELLANEOUS BUSINESS REGULATIONS

ARTICLE I. - IN GENERAL

Sec. 18-1. - Interest and collection costs of delinquent taxes.

The maximum interest permitted by state law shall be added to the amount of delinquent taxes. Accrual of interest shall begin on January 1 following the due date. All costs of issuing, collection, and

cancelling fi. fa.'s and those costs connected with tax sale proceedings be also added to the amount owed.

(Ord. of 10-5-1989)

Secs. 18-2—18-20. - Reserved.

ARTICLE II. - BUSINESS AND OCCUPATION LICENSES^[1]

Footnotes:

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State Law reference— Local occupation taxes on businesses and professions, O.C.G.A. § 48-13-5 et seq.

Sec. 18-21. - 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:

Business means any person who, within the corporate limits of the town, engages in, causes to be engaged in, and/or represents himself to be engaged in, any occupation or activity with the object of gain, benefit or advantage, either directly or indirectly. Any person advertising by any means, including, but not limited to, signs, cards, circulars, newspapers, etc., that he is engaged in a business of any kind shall be liable for the license required by this article and the payment of the fee therefor. No business required by this article to secure a license shall be exempt from the payment of the license fee on the grounds that the business is operated for a charitable purpose.

Date of commencing operations means the date on which a business heretofore not engaged in commercial transactions within the town becomes engaged in business as hereinafter defined.

License fee means the fixed occupation tax imposed by this article for a license to engage in business with the town for each calendar year.

Location or office includes any structure or vehicle where a business, profession, or occupation is conducted, but shall not include a temporary or construction work site which serves a single customer or project or a vehicle used for sales or delivery by a business or practitioner of a profession or occupation which has a location or office. The renter's or lessee's location which is the site of personal property which is rented or leased from another does not constitute a location or office for the personal property's owner, lessor, or the agent of the owner or lessor. The site of real property which is rented or leased to another does not constitute a location or office for the real property's owner, lessor, or the agent of the owner or lessor unless the real property's owner, lessor, or the agent of the owner or lessor, in addition to showing the property to prospective lessees or tenants and performing maintenance or repair of the property, otherwise conducts the business of renting or leasing the real property at such site or otherwise conducts any other business, profession, or occupation at such site.

Sec. 18-22. - Levy, scope.

There is hereby levied and assessed a license fee in the amount as provided in section 2-1 for each calendar year on all occupations and businesses having a location or office in the town which, under the laws of the state and town, the town has the authority to license and collect a fee therefor.

State Law reference— Levy of license tax, O.C.G.A. §§ 48-13-6, 48-13-7.

Sec. 18-23. - Separate businesses.

Where a person is engaged in more than one general business activity, each shall be considered a separate business under the terms of this article; and a separate license fee shall be levied and paid.

Sec. 18-24. - Payment of license fee.

All license fees assessed and fixed in accordance with this article shall be due on or before February 1 of each calendar year.

Sec. 18-25. - License to be displayed.

All persons shall exhibit and display the license issued to them in some conspicuous place in their business establishment at which address the license was issued. Any nonresident person doing business within the town shall carry the license either upon his person or in any vehicle or other conveyance which is used in the business and the person shall exhibit it to any authorized enforcement officer of the town when so requested.

Sec. 18-26. - Change of address.

Any person moving from one location to another shall notify the town clerk of the move and the new address in writing not later than the day of moving. The same business license will be valid at the new location if the new location conforms to the zoning regulations of the town.

Sec. 18-27. - Licenses transferable.

Business licenses shall be transferable, and a transfer of ownership shall be considered in the same light as the continuation of the business, provided that the name, location and dominant business activity remain unchanged. The new owner shall notify the town clerk of the change in ownership in writing not later than ten days following the date of such change.

Sec. 18-28. - Penalties for failure to make timely payment; interest on unpaid fees.

Any person failing to pay the license fee due under the terms of this article by the due date shall be subject to a penalty of ten percent of the fee or portion thereof then due for failure to pay the fee as provided under the terms of this article. All fees if not paid on or before the date due, as provided for in this article, shall be considered delinquent and shall from the due date, bear interest at the rate of 12 percent per annum.

Sec. 18-29. - Administration.

The town clerk shall administer and enforce this article for the levy, assessment and collection of license fees and penalties imposed herein.

Sec. 18-30. - Rules and regulations.

The town clerk shall have the power and authority to make and publish reasonable rules and regulations not inconsistent with this article or other laws of the town and the state, or the constitution of the state or the United States, for the administration and enforcement of this article and the collection of the license fees hereunder.

Sec. 18-31. - Duties of town clerk.

The town clerk or authorized representative shall, among other duties:

- (1) Prepare and provide the necessary forms for licensing a business, and for the submission of required information as may be necessary to properly administer and enforce this article.

- (2) Issue to each person a business license within a reasonable time after the payment of the license fee assessed and levied in this article; provided, however, where under other ordinances of the town, permits, certifications and compliance with the enumerated conditions are required for the operation of the business, the town clerk shall not issue the business license until the applicant exhibits to him those obtained permits, certifications and compliances; in those cases where an applicant has applied for necessary permits, certifications and compliances with enumerated conditions, and the applicant is permitted to operate a business while his application is pending, the town clerk may consider that provisional approval has been granted and issue a business license; provided, however, that at least 60 days have elapsed since the applicant has made application for the required permits, certifications and compliances.
- (3) Issue executions for the collection of all outstanding fees levied and assessed under the terms of this article, together with penalties and interest; the executions shall be collected in the manner provided by law for the collection of other taxes and fees due the town.

Sec. 18-32. - Duration of license.

The license referred to in this article shall automatically expire on December 31 of the year of its issuance.

Sec. 18-33. - Violations.

Any person violating any of the provisions of this article; any person committing any offense made unlawful herein; and any person engaging in business within the town without having first obtained the business license as herein provided for shall be guilty of a violation.

Sec. 18-34. - Subsequent amendments.

This article shall be subject to amendment or repeal, in whole or in part, at any time; and no such amendment or repeal shall be construed to deny the right of the town to assess, levy and collect any of the license fee prescribed. The payment of the license fee herein provided for shall not be construed as prohibiting the assessment, levy or collection of additional fees upon the same person.

Secs. 18-35—18-56. - Reserved.

ARTICLE III. - INSURANCE LICENSE TAX

Sec. 18-57. - Insurers license fees.

There is hereby levied for the year 1991, and for each year thereafter, an annual license fee upon each insurer doing business within the town in the amount as provided for in section 2-1. For each separate business location in excess of one not covered by section 18-58, which is operating on behalf of such insurers within the town, there is hereby levied a license fee in the amount as provided in section 2-1. For the purposes of this article, the term "insurer" means a company which is authorized to transact business in the class of insurance designated in O.C.G.A. § 33-3-5(1).

(Ord. of 1-3-1991, § 1)

Sec. 18-58. - License fee for insurers insuring certain risks at additional business locations.

For each separate business location, not otherwise subject to a license fee hereunder, operated and maintained by a business organization which is engaged in the business of lending money or transacting sales involving term financing and in connection with such loans or sales, offers, solicits or takes application for insurance through a licensed agent of an insurer for insurance, said insurer shall pay an

additional license fee as provided in section 2-1 per location for the year 1991, and for each year thereafter.

(Ord. of 1-3-1991, § 2)

State Law reference— License fee authorized, O.C.G.A. § 33-8-8.

Sec. 18-59. - Insurance agency license fees; independent insurance agencies, brokers, etc., not otherwise licensed.

There is hereby levied for the year 1991, and for each year thereafter, an annual license fee upon independent agencies and brokers for each separate business location from which an insurance business is conducted and which is not subject to the company license fee imposed by section 18-57, as provided in section 2-1 for each such location with the town.

(Ord. of 1-3-1991, § 3)

State Law reference— License fee authorized, O.C.G.A. § 33-8-8.

Sec. 18-60. - Gross premiums tax imposed on insurers.

There is hereby levied for the year 1991, and for each year thereafter, an annual tax based solely upon gross direct premiums upon each insurer writing life, accident and sickness insurance within the town in an amount equal to one percent of the gross direct premiums received during the calendar year in accordance with O.C.G.A. § 33-8-8.1. The term "gross direct premiums" as used in this section shall mean gross direct premiums as used in O.C.G.A. § 33-8-4. The premium tax levied by this section is in addition to the license fees imposed by section 18-57.

(Ord. of 1-3-1991, § 4)

Sec. 18-61. - Gross premiums tax, all other insurers.

There is hereby levied for the year 1991, and for each year thereafter, an annual tax upon each insurer, other than an insurer transacting business in the class of insurance designated in O.C.G.A. § 33-3-5(1), doing business within the town in an amount equal to 2.5 percent of the gross direct premiums received during the calendar year, in accordance with O.C.G.A. § 33-8-8.2. The term "gross direct premiums" as used in this section shall mean gross direct premiums as used in O.C.G.A. § 33-8-8.2(a).

(Ord. of 1-3-1991, § 5)

Sec. 18-62. - Due date for license fees.

License fees imposed in sections 18-57, 18-58, and 18-59 shall be due and payable on January 1, 1991, and on January 1 of each subsequent year.

(Ord. of 1-3-1991, § 6)

Secs. 18-63—18-82. - Reserved.

ARTICLE IV. - ROOM TAX²

Footnotes:

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State Law reference— Local hotel-motel occupancy taxes, O.C.G.A. § 48-13-50 et seq.

Sec. 18-83. - 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:

Due date means the 20th day after the close of the monthly period for which the tax is to be computed.

Estimated tax liability means the operator's prospective tax liability based upon tax remittance in the prior fiscal year, as adjusted for change in tax rate or substantial change in circumstances due to damage to the hotel.

Folio means primary documentation produced by a hotel that demonstrates interaction between the operator and the occupant, and which, at a minimum, reflects the name and address given by the occupant, the date of occupancy, the amount of rent charged for each date together with the amounts of applicable excise tax, and the method of payment.

Guest room means a room occupied, or intended, arranged, or designed for occupancy, by one or more occupants for the purpose of living quarters or residential use.

Hotel means any structure or any portion of a structure, including any lodginghouse, roominghouse, dormitory, Turkish bath, bachelor hotel, studio hotel, motel, motor hotel, auto court, truckstop, tourist cabin, lodge, inn, time-share or other condominium, apartment community, public club, containing guest rooms and which is occupied, or is intended or designed for occupancy, by paying guests, whether rent is paid in money, goods, labor, or otherwise. The term "hotel" does not include any hospital, asylum, sanitarium, orphanage, jail, prison, or other buildings in which human beings are housed and detained under legal restraint.

Monthly period means the calendar months of any year.

Occupancy means the use or possession, or the right to the use or possession of any guest room or apartment in a hotel or the right to the use or possession of the furnishings or to the services and accommodations accompanying the use and possession of the room.

Occupant means any person who, for a consideration, uses, possesses, or has the right to use or possess any guest room in a hotel under any lease, concession, permit, right of access, license to use or other agreement, or otherwise.

Operator means any person operating a hotel in the town, including, but not limited to, the owner or proprietor of such premises, lessee, sub-lessee, lender in possession, licensee or any other person operating such hotel; and who is subject to the taxation imposed for furnishing for value to the public any rooms, lodgings, or accommodations.

Permanent resident means any occupant as of a given date who has or shall have occupied or has or shall have the right of occupancy of any guest room in a hotel for not less than ten continuous days next preceding such date.

Person means any individual, firm, partnership, joint adventure, association, social club, fraternal organization, joint stock company, corporation, cooperative, estate, trust, receiver, trustee, syndicate, or any other group or combination acting as a unit, the plural as well as the singular number; excepting the United States, the state and any instrumentality of either thereof upon which the town is without power to impose the tax.

Rent means the consideration received for occupancy valued in money, whether received in money or otherwise, including all receipts, cash, credits, and property or services of any kind or nature, and also the amount for which, credit is allowed by the operator to the occupant, without any deduction therefrom whatsoever.

Tax means the tax on occupants imposed by this article, as provided for by O.C.G.A. § 48-13-50 et seq.

Town means the Town of Tallulah Falls and, variously, the incorporated territory of the town, wherein the Town of Tallulah Falls is empowered to impose this tax by O.C.G.A. § 48-13-50 et seq.

Town clerk means the duly appointed town clerk of the Town of Tallulah Falls or the clerk's designee.

(Ord. of 8-9-2007, § 1)

Sec. 18-84. - Tax rate.

There shall be paid for every occupancy of a guest room in a hotel in the town a tax at the rate of five percent of the amount of rent unless an exemption is provided under section 18-86.

(Ord. of 8-9-2007, § 2)

Sec. 18-85. - Collection of tax by operator.

Every operator renting guest rooms in the town shall collect a tax of five percent on the amount of rent from the occupant unless an exemption is provided under section 18-86. The operator shall provide a receipt to each occupant, which receipt shall reflect both the amount of rent and the amounts of this and other tax applicable. This tax shall be due from the occupant, and shall be collected by the operator at the same time that the rent is collected.

(Ord. of 8-9-2007, § 3)

Sec. 18-86. - Exemptions.

No tax shall be collected from an occupant after becoming a permanent resident; or from an occupant who certifies in writing that he is staying in such accommodations as a result of his residence having been destroyed by fire or other casualty; or from the United States and the state or any instrumentality of either thereof; or from any official or employee of the state, its units of local government or any other instrumentality of the state, when traveling on official business and presenting written substantiation thereof or paying by state or local government credit or debit card; or from a foreign diplomat exempted by treaty or consular convention, when presenting substantiation issued by the United States Department of State. Occupancy provided without charge in money or otherwise is exempt from this tax.

(Ord. of 8-9-2007, § 4)

Sec. 18-87. - Registration of operator; form and contents; execution; certificate of authority.

Every person engaging or about to engage in business as an operator of a hotel in the town shall immediately register with the town clerk on a form provided by said official. Persons engaged in such business must so register not later than 30 days after the effective date. Such registration shall set forth the name under which such person transacts business or intends to transact business, the location of his place of business and such other information which would facilitate the administration of the tax as

prescribed by the town clerk. The registration shall be signed by the owner if a natural person; in case of ownership by an association or partnership, by a member or partner; in case of ownership by a corporation, by an officer. The town clerk shall, after such registration, issue without charge a certificate of authority to each operator to collect the tax from the occupant. A separate registration shall be required for each place of business of an operator. Each certificate shall state the name and location of the business to which it is applicable.

(Ord. of 8-9-2007, § 5)

Sec. 18-88. - Determination generally; returns; payments.

- (a) *Acceptance of delinquent return and remittance without imposing penalty and interest; authority; requirements.* If the failure to make any return or to pay the amount of tax by the due date results from providential cause shown to the satisfaction of the town council by affidavit attached to the return, and remittance is made within ten days of the due date, such may be accepted exclusive of penalty and interest.
- (b) *Penalty for fraud.* In the case of a false or fraudulent return, or of failure to file a return where willful intent exists to defraud the town of any tax due, a penalty of 50 percent shall be assessed.

(Ord. of 8-9-2007, § 6)

Sec. 18-89. - Deficiency determinations.

- (a) *Re-computation of tax; authority to make; basis of re-computation.* If the town clerk is not satisfied with the return of the tax or the amount of the tax required to be paid to the town by any operator, he may compute and determine the amount required to be paid upon the basis of any information within his possession or that may come into his possession. One or more deficiency determinations may be made of the amount due for one or more monthly periods.
- (b) *Penalty and interest for failure to pay tax.* Penalty and interest shall be assessed upon the amount of any determination, as provided by section 18-88.
- (c) *Notice of determination; service of.* The town clerk shall give to the operator written notice of his determination. The notice may be served personally or by mail; if by mail, such service shall be addressed to the operator at his address as it appears in the records of the town. Service by mail is complete when delivered by certified mail with a receipt signed by the addressee.
- (d) *Time within which notice of deficiency determination to be mailed.* Except in cases of failure to make a return or of fraud, every notice of deficiency determination shall be mailed within three years after the 20th day of the calendar month following the monthly period for which the amount is proposed to be determined, or within three years after the return is filed, whichever period should last expire.

(Ord. of 8-9-2007, § 7)

Sec. 18-90. - Determination if no return made.

- (a) *Estimate of gross receipts.* If any operator fails to make a return, the town clerk shall make an estimate of the amount of the gross receipts of the operator, or as the case may be, of the amount of total rentals in the town which are subject to the tax. The estimate shall be made for the period in respect to which the operator failed to make the return and shall be based upon any information which is or may come into the possession of the town clerk. Written notice shall be given in the manner prescribed in section 18-89(c).
- (b) *Penalty and interest for failure to pay tax.* Penalty and interest shall be assessed upon the amount of any determination, as provided by section 18-88.

(Ord. of 8-9-2007, § 8)

Sec. 18-91. - Collection of tax by town.

- (a) *Action for delinquent tax; time for.* At any time within three years after any tax or any amount of tax required to be collected becomes due and payable, and at any time within three years after the delinquency of any tax or any amount of tax required to be collected, the town clerk may bring an action in a court of competent jurisdiction in the name of the town to collect the amount delinquent together with penalty, interest, court fees, filing fees, attorney's fees and other legal fees incident thereto.
- (b) *Operator selling or quitting business.* If any operator liable for any amount under this article sells out his business or quits his business, he shall make a final return and remittance within 15 days after the date of selling or quitting the business.
- (c) *Duty of successors or assignees of operator to withhold tax from purchase money.* If any operator liable for any amount under this article sells out his business or quits the business, his successors or assigns shall withhold sufficiently from the purchase price to cover such amount until the former owner produces from the town clerk either a receipt reflecting full payment or a certificate stating that no amount is due.
- (d) *Liability for failure to withhold.* If the purchaser of a business fails to withhold from the purchase price as required, he shall be personally liable for the payment of the amount required to be withheld by him to the extent of the purchase price.
- (e) *Credit for tax, penalty or interest paid more than once or erroneously or illegally collected.* Whenever the amount of any tax, penalty or interest has been paid more than once, or has been erroneously or illegally collected or received by the town, it may be offset by the town council. If the operator or person determines that he has overpaid or paid more than once, which fact has not been determined by the town clerk, such person shall have three years from the date of payment to file a claim in writing stating the specific ground upon which the claim is founded. The claim shall be audited. If the claim is approved by the town council, the excess amount paid to the town may be credited on any amounts then due and payable from the person by whom it was paid.

(Ord. of 8-9-2007, § 9)

Sec. 18-92. - Administration of article; recordkeeping.

- (a) *Authority of town clerk.* The town clerk shall administer and enforce the provisions of this article for the collection of the tax.
- (b) *Records required from operators, etc.; form.* Every operator renting guest rooms in the town shall preserve, for a minimum of three years, all folios, receipts, certificates of exemption and such other documents as the town clerk may prescribe, and in such form as he may require. Said records shall at all times be available for examination within the town.
- (c) *Application for sales tax audit reports.* Each year, in the month of January, the town clerk shall request in writing from the state commissioner of revenue any reports of sales tax audits conducted of hotels in the town during the preceding calendar year.
- (d) *Examination of records; audits.* The town clerk or any person authorized in writing by him may examine the books, papers, records, financial reports, equipment and other facilities of any operator renting guest rooms and any operator liable for the tax, in order to verify the accuracy of any return made, or if no return is made by the operator, to ascertain and determine the amount required to be paid.
- (e) *Authority to require reports; contents.* In administration of the provisions of this article, the town clerk may require the filing of reports by any person or class of persons having in their possession or

custody information relating to the rental of guest rooms which are subject to the tax. The reports shall be filed with the town clerk when required by said official, and shall set forth the rental charged for each occupancy, the date of occupancy, the basis for exemption, or such other information as the town clerk may prescribe.

(Ord. of 8-9-2007, § 10)

Sec. 18-93. - Violations.

Any person violating any of the provisions of this article shall be deemed guilty of an offense. Any operator who fails to register as required herein, or to furnish any return required to be made, or who fails or refuses to furnish a supplemental return or other data required by the town clerk, or who renders a false or fraudulent return, shall be deemed guilty of an offense.

(Ord. of 8-9-2007, § 11)

Secs. 18-94—18-114. - Reserved.

ARTICLE V. - ADULT ENTERTAINMENT

Sec. 18-115. - Short title; purpose.

- (a) This article shall be known and may be cited as the "Adult Entertainment Ordinance".
- (b) The purpose of this article 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 will be curtailed. However, it is recognized that such regulation cannot de facto approach prohibition. Otherwise, a protected form of expression would vanish. As to adult establishments, this article represents a balancing of competing interests: reduced criminal activity and protection of the neighborhoods through the regulation of adult entertainment establishments versus the protected rights of adult entertainment establishments and patrons.

Sec. 18-116. - Findings.

The town council has researched and examined case studies of the effect of adult entertainment businesses on towns similar in size and geography to the town and has found certain conditions to be attendant to the establishment of adult entertainment businesses. Such conditions have been found by the town council to be all negative in nature and include, but are not limited to, increased disorderly conduct, prostitution, drug trafficking, and drug use. Such conditions have also been determined to increase the expenditure of resources on local law enforcement, to increase the burden on the judicial system and to increase community blight on certain areas. The town council, therefore, determines that it is in the public welfare and government interest to seek to prevent, through the adoption of the ordinance from which this article is derived, the occurrence of these attendant conditions associated with adult entertainment businesses. The town council also finds that the establishment of adult entertainment businesses in towns similarly situated to the town has had a negative effect on property values in surrounding residential neighborhoods.

Sec. 18-117. - 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:

Adult bookstore means an establishment having a substantial or significant portion of its stock in trade, books, 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 five percent of its total floor space, devoted to the sale or display of such material or five percent of its net sales consisting of printed material which are distinguished or characterized by their emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas.

Adult business means either:

- (1) Any business other than those expressly specified in this article, where employees or patrons expose specified anatomical areas or engage in specified sexual activities; or
- (2) 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 means a business that features dancers displaying or exposing specified anatomical areas.

Adult hotel or motel means a hotel or motel wherein material is presented which is distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas.

Adult mini-motion picture theater means an enclosed building with a capacity for less than 50 persons used for commercially presenting material distinguished or characterized by an emphasis on matter depicting or relating to specified sexual activities or specified anatomical areas for observation by patrons therein.

Adult motion picture arcade means 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 areas.

Adult motion picture theater means an enclosed building with a capacity of 50 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 video store means any establishment having a substantial or significant portion of its stock in trade, videotapes or movies or other reproductions, 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 five percent of its total floor space, devoted to the sale or display of such material or which derives more than five percent of its net sales from videos which are characterized by their emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas.

Church means a body of communicants gathered into church order; united under one form of government by the profession of the same faith and the observance of the same ritual and ceremonies; place where persons regularly assemble for worship; congregation; organization for religious purposes.

Dancer means a person either female or male.

Erotic dance establishment means a nightclub, theater or other establishment which features live performances by topless and/or bottomless dancers, 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 means 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 areas.

Escort bureau introduction services means any business, agency or person who, for a fee, council, hire, reward or profit, furnishes or offers to furnish names or 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 about any place of public resort or within any private quarters.

Good moral character. A person is of "good moral character" if that person has not been convicted of a felony, or any crime not a felony if it involves moral turpitude, in the past five years. The town may 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.

Minor means any person who has not attained the age of 18 years.

Specified sexual activities includes any of the following:

- (1) Actual or simulated sexual intercourse, oral copulation, anal intercourse, oral anal copulation, bestiality, direct physical stimulation of 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, picquerism, sapphism, zooerasty;
- (2) Clearly depicted human genitals in a state of sexual stimulation, arousal or tumescence;
- (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 sexually oriented torture, beating or the inflicting of pain;
- (6) Erotic or lewd touching fondling or other sexual contact with an animal by a human being;
- (7) Human excretion, urination, menstruation, vaginal or anal irrigation.

Specified anatomical areas includes 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.

Sec. 18-118. - Regulations.

- (a) No person, firm, partnership, corporation, or other entity shall advertise, or cause to be advertised, on any billboard, sign or building, an adult entertainment establishment without a valid adult entertainment license issued pursuant to this article.
- (b) No later than March 1 of each year, an adult entertainment establishment licensee shall file a verified report with the license officer showing the licensee's gross receipts and amounts paid to dancers for the preceding calendar year.
- (c) An adult entertainment establishment licensee shall maintain and retain for a period of two years the names, addresses, and ages of all persons employed by the establishment, specifically including dancers.
- (d) No adult entertainment establishment licensee shall employ or contract with as a dancer a person under the age of 18 years or a person not licensed pursuant to this article.
- (e) No person under the age of 18 years shall be admitted to an adult entertainment establishment.
- (f) An adult entertainment establishment shall be opened only between 8:00 a.m. and 2:00 a.m. each day from Monday through Friday and between 8:00 a.m. and 12:00 p.m. on Saturday, and shall be closed on Sunday. No licensee shall permit his place of business to be opened on Christmas Day.
- (g) No adult entertainment establishment licensee shall serve, sell, distribute, or suffer the consumption or possession of any intoxicating liquor or controlled substance upon the premises of the licensee.

- (h) An adult entertainment establishment licensee shall conspicuously display all licenses required by this article.
- (i) All dancing shall occur on a platform intended for that purpose which is raised at least two feet from the level of the floor.
- (j) No dancing shall occur closer than ten feet to any patron.
- (k) No dancer shall fondle or caress any patron, and no patron shall fondle or caress any dancer.
- (l) No patron shall directly pay or give any gratuity to any dancer, and no dancer shall accept or solicit any pay or gratuity from any patron.
- (m) All areas of an establishment licensed hereunder shall be fully lighted at all times patrons are present. The term "fully lighted" shall mean illumination equal to 3.5 footcandles per square foot.
- (n) No adult entertainment licensee shall suffer or permit an employee or any other person on the premises to engage in any of the following sexual activities:
 - (1) Actual or simulated sexual intercourse, oral copulation, anal intercourse, oral-anal copulation, bestiality, direct physical stimulation of 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, picquerism, sapphism, zooerasty;
 - (2) Clearly depicted human genitals in a state of sexual stimulation, arousal or tumescence;
 - (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 sexually oriented torture, beating or the inflicting of pain;
 - (6) Erotic or lewd touching, fondling or other sexual contact with an animal by a human being;
 - (7) Human excretion, urination, menstruation, vaginal or anal irrigation.

Sec. 18-119. - Certain activities prohibited.

No person, association, partnership, limited liability company, corporation or other business entity shall publicly display or expose or suffer the public display of exposure, with less than a full opaque covering of any portion of a person's genitals, pubic area or buttocks in a lewd or obscene fashion.

Sec. 18-120. - Permit required.

It shall be unlawful for any person, association, partnership, corporation or any other business entity to engage in, conduct or carry on, in or upon any premises within the town any of the adult entertainment establishments defined in this article without a permit to so do. No permit so issued shall condone or make legal any activity thereunder if the same is deemed illegal or unlawful under the laws of the state or the United States.

Sec. 18-121. - Operation of unlicensed premises unlawful.

It shall be unlawful for any person to operate an adult bookstore, adult motion picture theater, adult minimotion picture theater, adult hotel or motel, adult motion picture arcade, adult video store, erotic dance establishment, cabaret, encounter center, or rap establishment, escort bureau, adult dancing establishment or adult business unless such business shall have a currently valid license or shall have made proper application for renewal within the time required thereof under this article, which license shall not be under suspension or permanently or conditionally revoked.

Sec. 18-122. - Admission of minors unlawful.

It shall be unlawful for a licensee to admit or permit the admission of minors within a licensed premises.

Sec. 18-123. - Sales to minors unlawful.

It shall be unlawful for any person to sell, barter or give, or to offer to sell, barter or give, to any minor any service, material, device or thing sold or offered for sale by an adult bookstore, adult motion picture theater, adult massage parlor or adult dancing establishment or any other adult entertainment facility or business.

Sec. 18-124. - Location.

No adult business or use restricted hereunder shall be located:

- (1) Within 1,000 feet of any parcel of land which is zoned, named or used for residential uses or purposes.
- (2) Within 1,000 feet of any parcel of land upon which a church, school, governmental building, library, civic center, state park, public park or playground is located.
- (3) Within 1,000 feet of any parcel of land upon which another establishment regulated or defined hereunder is located.
- (4) Within 1,000 feet of any parcel of land upon which any establishment selling alcoholic beverages is located.
- (5) On land containing fewer than 100 feet of road frontage.
- (6) Within 1,000 feet of a historical or scenic corridor as determined by the town council.

For the purposes of this section, distance shall be by airline measurement from property line to property line, using the closest property lines of the parcels of land involved. The term "parcel of land" means any quantity of land capable of being described by location and boundary, designated and used or to be used as a unit.

Sec. 18-125. - Adult entertainment establishment employees.

- (a) *Qualifications.* Employees of an adult entertainment establishment shall be not less than 18 years of age. Every employee must be of good moral character as defined in this article. Any employee who is convicted of a crime constituting a felony, or a crime not a felony involving moral turpitude, while employed as an adult entertainment establishment employee shall not thereafter work on any licensed premises for a period of five years from the date of such conviction, unless a longer time is ordered by a court of competent jurisdiction. The term "convicted" shall include, but not be limited to, an adjudication of guilt, a plea of guilty, nolo contendere, or a forfeiture of a bond when charged with a crime. The terms "employed as an adult entertainment establishment employee" and "work on any licensed premises" shall include any and all work done or services performed while in the scope of employment whether performed on the licensed premises or elsewhere. All employees must be fully clothed.
- (b) *Approval for employment.* Before any person may work on a licensed premises, he shall file a notice with the licensing officer of his intended employment on forms supplied by the licensing officer that require the information set forth in subsection (a) of this section and shall receive approval of such employment from the licensing officer. The prospective employer shall supply such information as the licensing officer requires, including a set of fingerprints on regular town or United States Department of Justice forms. The town shall have 30 days to investigate the information required to be submitted by the employee. If the employee is found to be of good moral character, the licensing officer shall grant approval of employment. Upon approval, the employee may begin working on the licensed premises. If approval is denied, the prospective employee may, within ten days of said denial, apply to the licensing officer for a hearing. The decision of the licensing officer after hearing may be appealed to the town council who shall issue such order as is required. An investigation fee

as set forth in section 2-1 shall accompany the notice of intended employment, or a receipt of the licensing officer evidencing the payment of such fee at the time the notice is filed.

- (c) *Suspension; revocation of license.* Violation of the provisions of this article, the laws, regulations and other ordinances of the town, the county or any municipality located therein, or the laws and regulations of the state or the United States, shall subject an employee to suspension or revocation of license.
- (d) *Independent contractors.* For the purpose of this article, independent contractors 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.

Sec. 18-126. - Application for permit.

- (a) Any person, association, partnership, limited liability company, corporation, or any other business entity desiring to obtain a permit to operate, engage in, conduct or carry on any adult entertainment establishment shall make application to the chief of police of the town, or his designated representative. Prior to submitting such application, a non-refundable fee, as provided in section 2-1, shall be paid to the town clerk to defray, in part, the cost of investigation and report required by this article. The town clerk shall issue a receipt showing that such application fee has been paid. The receipt, or a copy thereof, shall be supplied to the chief of police at the time such application is submitted.
- (b) The application for permit does not authorize the engaging in, operation of, conduct of or carrying on of any adult entertainment establishment.

Sec. 18-127. - Application contents.

Each application for an adult entertainment establishment permit shall contain the following information:

- (1) The applicant's full true name and any other names used by the applicant at any time.
- (2) The present 911 address and telephone number of the applicant.
- (3) The previous 911 address of the applicant, if any, for a period of five years immediately prior to the date of the application and the dates of residence at each.
- (4) Acceptable written proof that the applicant is at least 18 years of age.
- (5) The applicant's height, weight, color of eyes and hair, and date and place of birth, and Social Security number.
- (6) Two photographs of the applicant at least two inches by two inches taken within the last six months.
- (7) Business occupation or employment history of the applicant for the five years immediately preceding the date of application. Business or employment records of the applicant, partners in a partnership, members in a limited liability company, directors and officers of a corporation, and if a corporation, all shareholders holding more than five percent of the shares of corporate stock outstanding.
- (8) The business license history of the applicant and whether such applicant, in previous operations in the town or any other city, county, state or territory under license, has had such license or permit for an adult entertainment business or similar type of business denied, revoked or suspended, the reason therefor, and the business activity or occupation subsequent to such action of suspension or revocation.
- (9) All convictions, including ordinance violations, exclusive of traffic violations, stating the dates of places of any such convictions.
- (10) 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, directors and shareholders holding more than five percent of the stock outstanding in the corporation. If the applicant is a partnership, the applicant shall set forth the name, residence address and dates of birth of the partners, including limited partners if any. If the applicant is a limited partnership, it also shall furnish a copy of its certificate of limited partnership filed with the county clerk. If the applicant is a limited liability company, the name of the limited liability company shall be set forth exactly as shown in its articles of organization or charter, together with the place and date of organization, and the names and addresses of each of its members, and its current officers and managers, if any. If one or more of the partners or members, as the case may be, is a corporation, the provisions of this subsection pertaining to corporations shall apply. The applicant corporation, partnership, or limited liability company shall designate one of its officers, general partners, or managing members to act as its responsible managing officer. If the limited liability company is not member managed, then the limited liability company shall designate one of its officers or general members. Such designated person shall complete and sign all application forms required of an individual applicant under this article, but only one application fee shall be charged.

- (11) The names and address of the owner or lessor of the real property upon which the business is to be conducted and a copy of the lease or rental agreement.
- (12) Such other identification and information as the chief of police may reasonably require in order to discover the truth of matters hereinbefore specified as required to be set forth in the application.
- (13) The age and date of birth of the applicant, of any and all officers, directors, partners, and/or members, and, if applicable, any and all shareholders holding more than five percent of the stock outstanding in the corporation.
- (14) If the applicant as an individual, or if any partner, member, officer or director of the applicant, as a business entity, has been convicted of any crime constituting a felony, or any crime not a felony involving moral turpitude, in the past five 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.
- (15) The town shall require the individual applicant to furnish fingerprints of the applicant.
- (16) If the applicant is a person doing business under a trade name, a copy of the trade name properly recorded. If the applicant is a corporation or a limited liability company, a copy of authority to do business in the state, including articles of incorporation if a corporation, or articles of organization if a limited liability company, trade name affidavit, if any, and last annual report, if any.
- (17) At least three character references from individuals who are in no way related to the applicant or individual partners, members, shareholders, officers or directors of the business entity 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 constituting a felony, or any crime not a felony involving moral turpitude, within the last five years. The licensing officer shall prepare forms consistent with the provisions of this subsection for the applicant, who shall submit all character references on such forms.
- (18) Address of the premises to be licensed.
- (19) Whether the premises are owned or rented. If the applicant has a right to legal possession of the premises, copies of those documents giving such legal right.
- (20) A plat by a registered engineer, licensed by the state, showing the location of the proposed premises is not inconsistent with the provisions contained in section 18-124 and showing the location of the proposed premises in relation to the neighborhood, the surrounding zoning, its proximity to any church, school, state of public park, governmental building, library, civic center,

neighborhood public park or neighborhood playground, historical or scenic corridor or other business hereunder regulated or defined.

- (21) 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 a corporation, by the president of the corporation;
 - c. If by a partnership, by the manager or general partner;
 - d. If a limited liability company, by the manager or general member;
 - e. If any other organization or association, by the chief administrative official.
- (22) In addition to the information required herein, the application shall disclose the name, address, Social Security number and date of birth of any and all persons who have a financial interest of any type in the entity which is applying for the license.
- (23) Any other matter reasonably required by the chief of police.

Sec. 18-128. - Applicant to appear.

The applicant, if an individual, or designated responsible managing officer, if a partnership, limited liability company or corporation or any other business entity, shall personally appear at the town hall and produce proof that a non-refundable application fee, established by resolution of the town council, has been paid and shall present the application containing the aforementioned and described information.

Sec. 18-129. - Application; investigation.

- (a) The town shall have 30 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) The application conforms in all respects to the provisions of this article.
 - (3) The applicant has not knowingly made a material misrepresentation in the application.
 - (4) The applicant has fully cooperated in the investigation of the application.
 - (5) The applicant, if an individual; any of the shareholders, officers or directors, if the applicant is a corporation; any of the partners, including limited partners, if the applicant is a partnership; or any of the members, officers, or managers, if the applicant is a limited liability company; has not been convicted in a court of competent jurisdiction of an offense involving conduct, 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, or any crime involving dishonesty, fraud, deceit or moral turpitude.
 - (6) The applicant has not had an adult entertainment establishment permit or other similar license or permit denied or revoked for cause by this town or any other governmental jurisdiction located in or out of the 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 laws, including, but not limited to, health, zoning, distance, fire and safety requirements and standards, and would qualify to receive a certificate of occupancy.
 - (8) The applicant is at least 21 years of age.
 - (9) That the applicant, his employee, agent, partner, member, director, officer, shareholder or manager has not, within five years of the date of the application, knowingly allowed or permitted any of the specified sexual activities 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 openly occur.

- (10) That on the date the business for which a permit 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 1,000 feet of any parcel of land which is zoned for residential uses or purposes; within 1,000 feet of any parcel of land upon which a church, school, governmental building, library, civic center, neighborhood public park, state park, historical or scenic corridor or neighborhood playground is located; or within 1,000 feet of any parcel upon which another establishment regulated or defined hereunder is located.
 - (12) That the grant of such license will not cause a violation of this article or any other ordinance or regulation of the town, the counties, or any other municipality located therein, the state, or the United States.
- (b) Any other inquiry deemed necessary or desirable by the counties to ensure the health, safety and welfare of the citizens of the town or the preservation of its neighborhoods shall be made.
 - (c) The licensee shall maintain at all times a written notification of the name, address and phone number of the manager or assistant manager in charge of the licensed premises.
 - (d) There is hereby created a continuing obligation on the licensee to comply with all provisions of this article.
 - (e) The applicant shall appear before the town council at any hearing on this issue of the grant or denial of the requested license.

Sec. 18-130. - Persons prohibited as licensees.

No license provided for by this article shall be issued to or held by:

- (1) An applicant who has not paid all required fees and taxes for a business at that location or property taxes.
- (2) Any person who is not of good moral character.
- (3) Any corporation, any of whose officers, directors or, if any, shareholders holding more than five percent of the corporation's outstanding stock, are not of good moral character.
- (4) Any partnership, limited liability company, or association, any of whose partners, members, officers, directors or managers are not of good moral character.
- (5) Any persons employing, assisted by or financed in whole or in part by any person who is not of good moral character.
- (6) Any applicant who is not qualified to hold and conduct business according to the laws of the United States, the state, the town, the county, or any other municipality located therein.

Sec. 18-131. - Permit renewal.

Permits for adult entertainment establishments may be renewed on a year-to-year basis, provided that the permittees continue to meet the requirements set out in this article. The renewal fee for the adult entertainment establishment permits shall be established by resolution of the town council. Renewal applications shall be submitted by November 15 of each year prior to January 1 of the year for which such permit is requested.

Sec. 18-132. - Permits nontransferable.

No adult entertainment establishment permit may be sold, transferred or assigned by a permittee, or by operation of law, to any other person. Any such sale, transfer or assignment, or attempted sale, transfer or assignment, shall be deemed to constitute a voluntary surrender of such permit, and such

permit shall thereafter be null and void; provided and excepting, however, that if the permittee is a partnership, limited liability company, or association and one or more of the partners or members should die, one or more of the surviving partners or members may acquire, by purchase or otherwise, the interest of the deceased partner or member, without effecting a surrender or termination of such permit; and in such case, the permit upon notification to the town, shall be placed in the name of the surviving partner or member. An adult entertainment establishment permit issued to a corporation shall be deemed transferred and void when either any outstanding stock of the corporation is sold, transferred or assigned after the issuance of the permit, or any stock authorized but not issued at the time of granting of a permit is thereafter issued and sold, transferred, or assigned.

Sec. 18-133. - Change of location or name.

- (a) No adult entertainment establishment shall move from the location specified on its permit until a change of location fee, as provided in section 2-1, has been deposited with the town clerk and approval has been obtained from the town council. Such approval shall not be given unless all requirements and regulations as contained in the town rules, regulations, this article, and any other ordinances have been met.
- (b) No permittee shall advertise, operate, conduct, manage, engage in, or carry on an adult entertainment establishment under any name other than the permittee's name and the name of the business as specified on the permit.
- (c) Any application for an extension or expansion of a building or other place of business where an adult entertainment establishment is located shall require inspection and shall comply with the provisions and regulations of this article.

Sec. 18-134. - Permit, refusal, appeal.

If the town, following investigation of the applicant, deems that the applicant does not fulfill the requirements as set forth in this article, it shall notify the town clerk of such opinion and, within 30 days of the date of application, provide copies of the investigation report to the town clerk. The town clerk shall, within ten days, notify the applicant by certified mail of such denial. Any applicant which is denied a permit may appeal such denial to the town council by filing a written notice of appeal within ten days of the receipt of notice from the town clerk. A hearing before the town council shall be scheduled within 30 days of such notice.

Sec. 18-135. - Appeal procedure.

The permittee shall, within ten days after being notified of an adverse determination, submit a notice of appeal to the town clerk. The notice of appeal shall be addressed to the town council and shall specify the subject matter of the appeal, the date of any original and amended application or requests, the date of the adverse decision (or receipt of notice thereof), the basis of the appeal, the action requested of the town council, and the name and address of the applicant. The clerk shall place the appeal on the agenda of the next regular council meeting occurring not less than five nor more than 30 days after receipt of the application for the council action.

Sec. 18-136. - Appeal; council determines procedure.

When an appeal is placed on the council's agenda, the town council may take either of the following actions:

- (1) Set a hearing date and instruct the town clerk to give such notice of hearing as may be required by law.
- (2) Appoint a hearing officer and fix the time and place for hearing. The hearing officer may or may not be a town employee, and may be appointed for an extended period of time. The clerk shall assume responsibility for such publication of notice of the hearing as may be required by law. If a hearing officer is appointed, the hearing shall be conducted in accordance with the procedures set out in this article.

Sec. 18-137. - Town council hearing.

Whenever the town clerk has scheduled an appeal before the town council, at the time and date set therefor, the council shall receive all relevant testimony and evidence from the permittee, from interested parties and from town staff. The town council may sustain, overrule or modify the action complained of. The action of the town council shall be final.

Sec. 18-138. - Powers of hearing officer.

The hearing officer, appointed pursuant to the procedure set out in this article, may receive and rule on admissibility of evidence, hear testimony under oath and call witnesses as he may deem advisable with respect to the conduct of the hearing.

Sec. 18-139. - Rules of evidence inapplicable.

The town council and the hearing officer shall not be bound by the traditional rules of evidence in hearings conducted under this article. Rules of evidence as applied in an administrative hearing shall apply.

Sec. 18-140. - Hearing officer; report.

- (a) The hearing officer shall, within a reasonable time not to exceed 30 days from the date such hearing is terminated, submit a written report to the town council. Such report shall contain a brief summary of the evidence considered and state findings, conclusions and recommendations, all such reports shall be filed with the town clerk, and shall be considered public records. A copy of such report shall be forwarded by certified mail to the permittee/appellant the same day it is filed with the town clerk, with additional copies furnished to the town clerk and chief of police.
- (b) The town clerk shall place the hearing officer's report on the agenda of the next regular town council meeting occurring not less than ten days after the report is filed and shall notify the permittee/appellant of the date of such meeting at least ten days prior to the meeting unless the permittee/appellant stipulates to a shorter notice period.

Sec. 18-141. - Hearing officer report; action by town council.

The town council may adopt or reject the hearing officer's decision in its entirety or may modify the proposed recommendation. If the town council does not adopt the hearing officer's recommendation, it may:

- (1) Refer the matter to the same or another hearing officer for a completely new hearing, or for the taking of additional evidence on specific points; in either of such cases, the hearing officer shall proceed as provided in this article.
- (2) Decide the case upon a review of the entire record before the hearing officer with or without taking additional evidence.

Sec. 18-142. - Unlawful operation declared nuisance.

Any adult entertainment establishment operated, conducted or maintained contrary to the provisions of this article 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 prosecuting a criminal action hereunder, commence an action, proceeding for abatement, removal or enjoinder thereof, in the manner provided by law. It shall take such other steps and shall apply to such court as may have jurisdiction to grant such relief as will abate or remove such adult entertainment establishment and restrain and enjoin any person from operating, conducting or maintaining an adult entertainment establishment contrary to the provisions of this article. In addition, violation of the provisions of this article shall be per se grounds for suspension or revocation of a license granted hereunder.

Sec. 18-143. - Revocation and appeal.

- (a) The chief of police shall be authorized to suspend or revoke a license previously granted herein. In the event the chief of police seeks to suspend or to revoke a license, the chief of police shall give written notification to the licensee of such action and such notice shall contain a specification of the violation and shall be served upon the licensee at least five days prior to the notice of hearing. The licensee shall be given written notice of the time and place of the hearing.
- (b) The chief of police shall be authorized to suspend or revoke a license in the event of any one or more of the following:
 - (1) The license application is not filed in good faith or is filed by some person or entity as a subterfuge for any other person or entity;
 - (2) Any person or entity to whom a license has been issued is no longer engaged in the adult entertainment business or no longer qualifies as a licensee under this article;
 - (3) A licensee gave false or misleading information in the original application process;
 - (4) A licensee has knowingly allowed possession, use, or sale of controlled substances on the premises and/or knowingly allowed possession, use, or sale of controlled substances to a minor on the premises;
 - (5) A licensee has knowingly allowed the violation of an ordinance of the town or a violation of any criminal law of the state to occur on the premises;
 - (6) A licensee has violated any provision of this article;
 - (7) A licensee has been convicted of any drug-related, alcohol-related or sex-related crime or crime of moral turpitude by the state or the county, regarding an offense which was committed on the premises or which would otherwise violate the provisions of this article; and
 - (8) A licensee fails to pay any fee, license fee, fine or other amount of money due to the town under this article or any other licensing ordinance of the town.
- (c) In the event the chief of police shall suspend or revoke any license hereunder, the suspension or revocation shall be for a period of not less than one day nor more than 36 days, within the discretion of the chief of police; provided, however, that the licensee shall be authorized to continue its business operations until that date of the hearing scheduled in accordance with subsection (d) of this section. No licensee or other applicant may apply for a license for the adult entertainment establishment during any period of suspension or revocation. In any hearing conducted by the chief of police, the chief of police shall consider, among other things, the severity of the allegations, the evidence submitted and the testimony presented, in making any decision on suspension, revocation and the duration of either.
- (d) In the event of a suspension or revocation by the chief of police, the licensee may appeal the decision of the chief of police to the town council by filing a written notice of appeal within ten days from the date of the decision of the chief of police. Thereafter, a hearing shall be scheduled before the town council within 30 days after the date of the notice of appeal by the applicant. After hearing by the town council, the town council may take such action as it deems appropriate, including the upholding of the action of the chief of police or the imposition of such action as the town council may deem appropriate under the facts. The decision of the town council shall be final. Appeals from the decision of the town council shall be to the superior court of the county filed within 30 days after the final action of the town council. In the event the licensee does not file an appeal from any decision of the chief of police, as provided herein, the decision of the chief of police shall be final.

Sec. 18-144. - License and annual renewal fees.

- (a) There is hereby established a non-refundable fee, to be submitted with any and every application to operate an adult entertainment establishment pursuant to this article providing for the issuance of such permit.
- (b) The annual renewal fee for any such license shall be as provided in section 2-1.

(c) The non-refundable fee and annual renewal fee shall be determined by the town council by October 1 of each year for the succeeding license year.

Sec. 18-145. - Advertising and posting.

The premises for which the license herein is sought shall be posted with a notice in a form prescribed by the chief of police for at least 21 days prior to the hearing before the town council as set forth herein. In addition, a newspaper advertisement shall be published in a form prescribed by the chief of police at least once in the newspaper a minimum of ten days prior to the hearing before the town council as set forth herein.

Sec. 18-146. - Premises open for inspection.

The premises shall be open at reasonable times for inspection by the town to ensure compliance with this article.

Sec. 18-147. - Compliance.

Any business lawfully operating on the effective date of the ordinance from which this article is derived that is in violation of the requirements hereof shall be deemed to be doing so unlawfully, and shall be deemed a public nuisance. Such operation shall be permitted to continue for a period not to exceed 90 days, unless sooner terminated for any reason or voluntarily discontinued for a period of 30 days or more. Such unlawful use, or such public nuisance, shall not be increased, enlarged, extended or altered except that the use may be changed to a lawful use or one which does not constitute a public nuisance. If two or more adult entertainment establishments are located within 1,000 feet of any other adult entertainment establishment yet both are otherwise in a permissible location hereunder, the adult entertainment establishment that was first established and continually operated at a particular location shall be the lawful use, and the later-established adult entertainment establishment shall be deemed unlawful and a public nuisance.

Secs. 18-148—18-177. - Reserved.

ARTICLE VI. - PEDDLERS AND ITINERANT MERCHANTS

DIVISION 1. - GENERALLY

Sec. 18-178. - 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:

Itinerant merchant means any person, whether as owner, agent, consignee or employee, or 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 boxcar, boat, or public room in any hotel, lodginghouse, apartment, or shop within the town for the exhibition and sale of such goods, wares, and merchandise, either privately or at public auction.

Peddler includes any person, whether a resident of the 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.

(Ord. of 3-7-1980, § 2)

Sec. 18-179. - Exemptions.

This article shall not be applicable to traveling salesmen or nonresident merchants as provided in O.C.G.A. § 48-5-354, 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 non-profit organizations.

(Ord. of 3-7-1980, § 3)

Sec. 18-180. - Loud noises and speaking devices.

No licensee under this article, nor anyone in 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 volume 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 3-7-1980, § 8)

Secs. 18-181—18-198. - Reserved.

DIVISION 2. - LICENSE

Sec. 18-199. - Required.

Each peddler and itinerant merchant who does business within the town shall be required to obtain a license from the town clerk in the manner specified hereinafter.

(Ord. of 3-7-1980, § 1)

Sec. 18-200. - Application.

- (a) Application for a new license under this section shall be made in writing and in person at the office of the town clerk during business hours, at least 24 hours prior to transacting business within this municipality.
- (b) Contents of application. Each application shall contain the following information:
 - (1) Name and home address of the applicant;
 - (2) The place in the town where it is proposed to carry on the applicant's business, and the length of time during which it is proposed that said business shall be conducted;
 - (3) The kind of business to be carried on; and
 - (4) Such additional information as the town clerk may find reasonably necessary to the fair administration of this article.

(Ord. of 3-7-1980, § 4)

Sec. 18-201. - Service of process.

Before any license as herein provided shall be issued for engaging in business as a peddler or itinerant merchant in the town, 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 as required by this section, 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 applying for the said license under this article, according to the law of this or any other state, and waiving all claim or right of error by reason of such acknowledgement 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.

(Ord. of 3-7-1980, § 5)

Sec. 18-202. - Fee established.

The business license fee for each peddler and itinerant merchant doing business in the town shall be as provided in section 2-1 for no more than a two-week period and having at least a 90-day period unless otherwise approved by the council.

(Ord. of 3-7-1980, § 6)

Sec. 18-203. - Duty to exhibit.

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

(Ord. of 3-7-1980, § 7)

Chapter 20 - MUNICIPAL COURT¹¹

Footnotes:

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State Law reference— Municipal courts, O.C.G.A. § 36-32-1 et seq.

Sec. 20-1. - Convening municipal court.

The municipal court shall be convened on the last Tuesday of each calendar month beginning at 4:00 p.m. with the exception of December when no court will be held.

Sec. 20-2. - Clerk of municipal court.

There is hereby established an office of clerk of the municipal court, who shall attend all sessions of the court, keep a record of each warrant or summons, the name of the accused, the offense charged, the disposition of the case, the judgment of the court, the punishment imposed, and the amount of the fine paid, in each case. He shall issue all summons, subpoenas, processes, and papers required by the practice in said court, or that may be necessary for the enforcement of the ordinances of the town.

Sec. 20-3. - Record of cases.

A record of all cases heard in the municipal court for violation of this Code or other municipal ordinances shall be kept and maintained by the clerk of the municipal court. Such record shall contain the name of the defendant, the nature of the offense charged, the final disposition of the case and the date of final disposition.

Sec. 20-4. - Service of summons.

Any person charged with violating any town ordinance shall receive notice by service of a summons as herein provided. Such summons may be issued by the town clerk or any police officer. The summons shall be directed to the accused and shall distinctly state the offense charged; the time and place, as far as practicable, of the offense charged; and the day, hour, and place of trial; requiring the accused to appear before the judge of the municipal court to answer the accusation made. Service of the summons shall be made by a police officer either by serving the accused personally or by leaving a copy at his most notorious place of abode except that in the case of a summons issued for violation of laws or ordinances relating to the parking of motor vehicles, such summons may be directed to an unknown person as owner of an automobile designated in the summons and may be served upon such person by leaving a copy in or attached to such automobile.

Sec. 20-5. - Subpoenas.

The town clerk shall issue subpoenas for the appearance of all witnesses necessary for the prosecution or for the defense in any case pending before the municipal court. All subpoenas shall be served in the same manner as a summons.

Sec. 20-6. - Failure to obey summons or subpoena.

Any person who fails to appear at the time and place set out in any summons or subpoena served upon him shall be guilty of contempt of court and upon conviction thereof shall be punished for same.

Sec. 20-7. - Collection of fines.

When directed by the judge of the municipal court, the town clerk shall issue executions for fines imposed by the court, including the costs, which executions may be levied upon any goods, chattels, lands or tenements of the person so fined.

Sec. 20-8. - Technology fee.

(a) *Municipal court technology fee.*

- (1) The city council establishes a municipal court technology fee. The amount of the fee will be established by the council by separate ordinance.
- (2) The fee will be assessed and collected from a defendant upon conviction for a misdemeanor offense in the municipal court as a cost of court. A defendant is considered convicted if:
 - a. A sentence is imposed on the person;
 - b. The person is placed on community supervision, including deferred adjudication community supervision; or
 - c. The court defers final disposition of the person's case.
- (3) The clerk of the court shall collect the fee and pay the fee to the director of finance, who shall deposit the fee into the municipal court technology fund.

(b) *Designated use of the fees and administration.* The fees collected under subsection (a) of this section shall be used only to finance the purchase of technological enhancements for the city's municipal court, including:

- (1) Computer systems;

- (2) Computer networks;
- (3) Computer hardware;
- (4) Computer software;
- (5) Imaging systems;
- (6) Electronic kiosks;
- (7) Electronic ticket writers; and
- (8) Docket management systems.

(Ord. No. 1999-83, § 1, 9-27-1999)

Chapter 22 - NUISANCES¹¹

Footnotes:

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State Law reference— Nuisance abatement ordinances, O.C.G.A. § 41-2-9.

Sec. 22-1. - 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:

Closing means securing and causing a dwelling, building, or structure to be vacated.

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. 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.

Governing body means the town council.

Inoperable vehicle means any motorized vehicle, other than those vehicles temporarily disabled, which is incapable of immediately being driven. Any motorized vehicle without a current vehicle registration tag shall be considered an inoperable vehicle.

Junk means any scrap, waste, reclaimable material, or debris, whether or not stored, for sale, or in the process of being dismantled, destroyed, processed, salvaged, stored, baled, disposed, or other use or disposition. The term "junk" may include inoperable vehicles, tires, vehicle parts, equipment, paper, rags, metal, glass, building materials, household appliances, machinery, brush, wood, litter, and lumber.

Junk/salvage yard means any property involving the abandonment, parking, storage or disassembly of junk, including inoperable vehicles or junked machinery, the abandonment, storage, sale, or resale of used auto parts, tires, scrap iron, household appliances, used brick, wood, or other building/structural materials, used paper, rags or other scrap materials.

Litter means trash, wastepaper, junk, filth, debris, scraps, rubbish, materials in a crumbled or broken condition or mass, debris from pruning or processing plant material, and any material or object having little or no value due to being discarded, crumbled, broken, or being debris.

Owner means the holder of the title in fee simple of the property.

Parties in interest means persons in possession of said property and all mortgagees, individuals, associations, and corporations who have interest of record in the county where the property is located in the property or a dwelling, building, or structure upon the property, including executors, administrators, guardians, and trustees.

Public authority means any officer who is in charge of any department or branch of the government of the town relating to health, fire, or building regulations or to other activities concerning dwellings, buildings, or structures in the town including, but not limited to, the police chief, the building inspector, the fire chief, town clerk, public works director, and any other designated employee.

Public officer means the officer authorized by this chapter to exercise the powers prescribed by this chapter or any agent of such officer or officers, including, but not limited to, the police chief, the building inspector, the fire chief, town clerk, public works director, and any other designated employee.

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 or the renovation and repair of any dwelling, building or structure to bring it into compliance with this chapter or the applicable technical building codes of the town, or both.

Resident means any person that actually resides within the incorporated area of the town.

(Ord. of 2-9-2006, § 1)

Sec. 22-2. - Cleanliness of private properties.

Every owner, occupant, tenant, lessee, proprietor, and person in charge of every dwelling, building, business, commercial establishment, institution, and industrial establishment shall, jointly and severally, be required to comply with the following:

- (1) Keep driveways, yards, parking, loading, work areas and areas adjacent thereto and under his control reasonably clean at all times, and to keep property free of junk, salvage or scrap materials.
- (2) Maintain garbage storage areas in a clean condition and to ensure that all garbage is properly containerized; and all containers shall be shielded from public view.
- (3) Furnish containers for construction debris, salvage materials and litter, and to containerize all such litter by the end of each work day.

(Ord. of 2-9-2006)

Sec. 22-3. - Junk or inoperable motor vehicles prohibited.

Except on properties that meet the definition of an auto wrecking yard or junkyard, and such uses are permitted in the zoning district in which they are located, no person owning real estate within the town shall allow or keep any junk or inoperable motor vehicle or parts thereof on said property unless vehicles are stored out of view of passing public and adjoining properties.

(Ord. of 2-9-2006, § 1)

Sec. 22-4. - Screening of wrecked motor vehicle compounds required.

Any person who owns, operates or maintains an auto wrecking yard or junkyard, automobile repair garage, automobile body shop, or other permitted use involving junk, unlicensed motor vehicles, or junk motor vehicles outdoors shall provide a solid vertical wall or fence of a minimum height of six feet,

measured along the ground level along the entire perimeter of the subject yard, compound or area, including entrance and exit gates, such that screening is provided on all sides from the view from public streets and adjacent properties.

(Ord. of 2-9-2006, § 2)

Sec. 22-5. - Dangerous and/or uninhabitable structures within the town.

If a structure is deemed dangerous or uninhabitable by the town council, the property owner shall, upon notification by the town, have six months from the date of notification to either begin bringing the structure up to livable standards or demolish the structure and remove the debris from said property. Failure to do so shall result in fines and/or penalties levied against the property owner. Once the property owner has begun improvements or demolition, he must, after six months from the original notification, come before the town council and show just cause for any extensions of time.

(Ord. of 2-9-2006, § 3)

Sec. 22-6. - Complaints; hearing.

- (a) Whenever a request is filed with the code enforcement officer by a public authority or by at least two residents of the town charging that any dwelling, building, structure, or property is unfit for human habitation or for commercial, industrial, or business use and not in compliance with applicable codes; is vacant and being used in connection with the commission of drug crimes; or constitutes an endangerment to the public health or safety as a result of unsanitary or unsafe conditions, the code enforcement officer shall make an investigation or inspection of the specific dwelling, building, structure, or property. If the officer's investigation or inspection identifies that any dwelling, building, structure, or property is unfit for human habitation or for commercial, industrial, or business use and not in compliance with applicable codes; is vacant and being used in connection with the commission of drug crimes; or constitutes an endangerment to the public health or safety as a result of unsanitary or unsafe conditions, the code enforcement officer may issue a complaint in rem against the lot, tract, or parcel of real property on which such dwelling, building, or structure is situated or where such public health hazard or general nuisance exists and shall cause a summons and a copy of the complaint to be served on the interested parties for such dwelling, building, or structure. The complaint shall identify the subject real property by appropriate street address and official tax map reference; identify the interested parties; state with particularity the factual basis for the action; and contain a statement of the action sought by the code enforcement officer to abate the alleged nuisance. The summons shall notify the interested parties that a hearing will be held before the municipal court. Such hearing shall be held not less than 15 days nor more than 45 days after the filing of said complaint in the court. The interested parties shall have the right to file an answer to the complaint and to appear in person or by attorney and offer testimony at the time and place fixed for the hearing.
- (b) If after such notice and hearing, the court determines that the dwelling, building, or structure in question is unfit for human habitation or is unfit for its current commercial, industrial, or business use and not in compliance with applicable codes; is vacant and being used in connection with the commission of drug crimes; or constitutes an endangerment to the public health or safety as a result of unsanitary or unsafe conditions, the court shall state, in writing, findings of fact in support of such determination and shall issue and cause to be served upon the interested parties that have answered the complaint or appeared at the hearing 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 present value of the dwelling, building, or structure, requiring the owner, within the time specified in the order, to repair, alter, or improve such dwelling, building, or structure so as to bring it into full compliance with the applicable codes

relevant to the cited violation and, if applicable, to secure the structure so that it cannot be used in connection with the commission of drug crimes; or

- (2) If the repair, alteration, or improvement of the said dwelling, building, or structure in order to bring it into full compliance with applicable codes relevant to the cited violations cannot be made at a reasonable cost in relation to the present value of the dwelling, building, or structure, requiring the owner, within the time specified in the order, to demolish and remove such dwelling, building, or structure and all debris from the property.

For purposes of this section, the court shall make its determination of "reasonable cost in relation to the present value of the dwelling, building, or structure" without consideration of the value of the land on which the structure is situated; provided, however, that costs of the preparation necessary to repair, alter, or improve a structure may be considered. Income and financial status of the owner shall not be a factor in the court's determination. The present value of the structure and the costs of repair, alteration, or improvement may be established by affidavits of real estate appraisers with a state appraiser classification as provided in O.C.G.A. title 43, ch. 39A, qualified building contractors, or qualified building inspectors without actual testimony presented. Costs of repair, alteration, or improvement of the structure shall be the cost necessary to bring the structure into compliance with the applicable codes relevant to the cited violations in force in the town.

State Law reference— Similar provisions, O.C.G.A. § 41-2-9(a)(3), (4).

Sec. 22-7. - Abatement by town.

- (a) If the owner fails to comply with an order to repair or demolish the dwelling, building, or structure, the code enforcement officer may cause such dwelling, building, or structure to be repaired, altered, or improved or to be vacated and closed or demolished. Such abatement action shall commence within 270 days after the expiration of time specified in the order for abatement by the owner. Any time during which such action is prohibited by a court order issued pursuant to O.C.G.A. § 41-2-13 or any other equitable relief granted by a court of competent jurisdiction shall not be counted toward the 270 days in which such abatement action must commence. The code enforcement officer shall cause to be posted on the main entrance of the building, dwelling, or structure a placard with the following words:

"This building is unfit for human habitation or commercial, industrial, or business use and does not comply with the applicable codes or has been ordered secured to prevent its use in connection with drug crimes or constitutes an endangerment to public health or safety as a result of unsanitary or unsafe conditions. The use or occupation of this building is prohibited and unlawful."

- (b) If the code enforcement officer has the structure demolished, reasonable effort shall be made to salvage reusable materials for credit against the cost of demolition. The proceeds of any monies received from the sale of salvaged materials shall be used or applied against the cost of the demolition and removal of the structure, and proper records shall be kept showing application of sales proceeds. Any such sale of salvaged materials may be made without the necessity of public advertisement and bid. The code enforcement officer and town council are relieved of any and all liability resulting from or occasioned by the sale of any such salvaged materials, including, without limitation, defects in such salvaged materials.
- (c) The amount of the cost of demolition, including all court costs, appraisal fees, administrative costs incurred by the county tax commissioner or town tax collector or revenue officer, and all other costs necessarily associated with the abatement action, including restoration to grade of the real property after demolition, shall be a lien against the real property upon which such cost was incurred.
- (d) Other town departments shall assist the code enforcement officer as is necessary in abating nuisances hereunder.

State Law reference— Similar provisions, O.C.G.A. § 41-2-9(a)(5)—(7).

Chapter 24 - OFFENSES AND MISCELLANEOUS PROVISIONS

Sec. 24-1. - Definitions.

All terms used in this chapter shall have the meaning assigned such term by criminal statutes of the state and case law construing the criminal statutes of the state.

(Ord. of 6-8-1995, § IV)

Sec. 24-2. - Obstructing town officers.

No person shall in any way obstruct, hinder, oppose, strike, assault, molest, abuse or provoke any official of the town engaged in the discharge of their duty.

(Ord. of 2-1-1890, § 28)

Sec. 24-3. - Firearms; fireworks; discharging prohibited.

It shall be unlawful for any person to discharge any firearms. It is unlawful to ignite or launch fireworks, at a location that is more than 2,000 feet above mean sea level.

(Ord. of 6-8-1995, § 1-14)

State Law reference— Fireworks, O.C.G.A. § 25-10-1 et seq.

Sec. 24-4. - Disorderly conduct.

It shall be unlawful and disorderly conduct for any person to do any of the following:

- (1) Act in a violent or tumultuous or threatening manner toward another, whereby a reasonable person would be placed in fear of safety for life or limb.
- (2) Place the property of another in serious danger of being destroyed or damaged.
- (3) Use fighting words directed toward another, who becomes outraged and thus creates a turmoil.
- (4) Violently interfere with another person's pursuit of a lawful occupation.
- (5) Congregate with others to halt the flow of vehicular or pedestrian traffic or refuse to clear the way when ordered by lawful authority to do so.

(Ord. of 6-8-1995, § 1-8)

State Law reference— Disorderly conduct, O.C.G.A. § 16-11-39.

Sec. 24-5. - Disturbing the peace.

No person shall engage in any conduct calculated to disturb the peace and quietude of citizens in the town.

(Ord. of 2-1-1890, § 29)

Sec. 24-6. - Public drunkenness.

It shall be unlawful for any person to be in any public place or on the streets and roadways of the town in an intoxicated condition.

(Ord. of 6-8-1995, § 1-7)

Sec. 24-7. - Public indecency; indecent exposure.

Any person who shall be found guilty of any act of public indecency in the town or appear in any public place in any indecent costume or naked or making any indecent exposure of their person or any indecent or vulgar act in a public place, shall be guilty of a misdemeanor.

(Ord. of 2-1-1890, § 17)

Sec. 24-8. - Offensive language.

Any person found guilty of using any language that is reasonably foreseeable to provoke an immediate breach of the peace upon any street, alley, sidewalk, or in any other public place shall be guilty of a misdemeanor.

(Ord. of 2-1-1890, § 18)

Sec. 24-9. - Noise.

Any person found guilty of making any noise at night calculated to disturb a reasonable person shall be guilty of a misdemeanor.

(Ord. of 2-1-1890, § 19)

Sec. 24-10. - Disturbing public meetings or amusements.

No person shall create or be engaged in any disturbance at any public meeting or place of amusement, either by loud talking or laughing, indecent or profane language or any disturbing sound or action.

(Ord. of 2-1-1890, § 27)

Sec. 24-11. - Peeping toms.

- (a) It shall be unlawful for any person to be a "peeping tom" on or about the premises of another or any public place for the purpose of becoming a "peeping tom."
- (b) As used in this section, the term "peeping tom" means a person who peeps through windows or doors, or other like places, on or about the premises of another for the purpose of spying upon or invading the privacy of the persons spied upon and the doing of any other acts of a similar nature which invade the privacy of such persons.

(Ord. of 6-8-1995, § 1-9)

Sec. 24-12. - Possession of marijuana prohibited.

It shall be unlawful to possess one ounce or less of marijuana within the town.

(Ord. of 6-8-1995, § 1-5)

State Law reference— Jurisdiction of municipal court over above offense, O.C.G.A. § 36-32-6.

Sec. 24-13. - Dead animals.

Any person leaving any dead animal in the town shall be guilty of a misdemeanor.

(Ord. of 2-1-1890, § 31)

Sec. 24-14. - Creating a hazardous or physically offensive condition.

No person shall create a hazardous or physically offensive condition by an act which serves no legitimate purpose.

Sec. 24-15. - Camping.

No person shall camp in the town except at designated locations.

Chapter 26 - PARKS AND RECREATION

ARTICLE I. - IN GENERAL

Secs. 26-1—26-18. - Reserved.

ARTICLE II. - RECREATIONAL PROPERTY

Sec. 26-19. - Use generally.

Recreational areas shall be used only for the purposes designated by the operator. All persons utilizing recreational property shall comply with all rules posted by the operator.

(Ord. of 5-5-2005)

Sec. 26-20. - Alcohol or drugs.

No person shall enter or remain within a recreational area while under the influence of alcohol or drugs.

(Ord. of 5-5-2005)

Sec. 26-21. - Fires.

Fires shall only be permitted in rings or containers authorized by the operator. Fires must be small enough that they do not interfere with the enjoyment of the area by others. All fires must be contained and attended by an adult at all times. The burning of trash or building materials is prohibited.

(Ord. of 5-5-2005)

Chapter 28 - SIGNS

Sec. 28-1. - Short title.

This chapter shall hereafter be known and cited as the "Sign Ordinance."

Sec. 28-2. - 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.

Activity sign means any notice, advertisement or object, pictorial or otherwise, which directs attention to lawful activities conducted upon the premises where such sign is located, including those which direct attention to goods, commodities, products, services or entertainment sold or offered on the premises.

Building line of buffer zone means a line established in general, parallel to the front street line, between which line and the street no part of a sign shall project.

Community (special) event sign means a temporary sign announcing a community or special event sponsored by the town, a school, church, or other non-profit charitable or service organization including directional signs to such an event.

Erect means to build, construct, attach, hang, place, suspend, or affix or fabricate a sign, which shall also include painting of a wall sign or other graphics.

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.

Ground sign means a permanently affixed sign which is wholly independent of a building for support.

Height of sign means the vertical distance from the base of the sign at normal grade to the top of the highest component of the sign. Normal grade shall be the predominant grade after construction, exclusive of any filling, berming, mounding or excavating for the purpose of locating or elevating the sign. The base shall be where the sign support meets, or should meet, the normal grade.

Illuminated sign, external, means a sign illuminated by an external light source not mounted to the sign and directed toward such sign.

Illuminated sign, internal, means a sign illuminated by an internal light source.

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 an activity sign painted on, attached from a marquee.

Mobile sign means any sign which is mounted or designed for mounting on wheels, or which is mounted or designed for mounting on a towed vehicle, and the primary purpose of which is advertising.

Nonconforming sign means a sign which does not conform to the provisions of this chapter.

Off-premises sign means any sign or graphic not located on the immediate premises of the business or entity indicated, advertised, or identified by said sign or any sign which advertises or calls attention to any activity, product, event, service, business, or institution where the same is not conducted, furnished, sold, or offered on the immediate premises where such sign is located.

Political signs and posters means signs identifying and urging voter support for a particular election issue, political party, or candidate for public office.

Portable sign means any sign which is not permanently affixed, including, but not limited to, signs mounted, painted or affixed on vehicles parked in such a manner as to serve the purpose of an advertising device, or not routinely parked at the immediate premises of the business or entity indicated, advertised or identified by said sign.

Real estate sign means a temporary sign erected by the owner, or his agent, advertising real property upon which the sign is located for rent, lease, or for sale.

Sidewalk or sandwich sign means a moveable sign not permanently secured or attached to the ground or surface upon which it is located.

Sign means any surface, material, fabric, device, object, or display which bears lettered, numbered, pictorial or sculptured matter, designed to convey information visually or to draw attention and which is exposed to public view. The term "sign" shall not include those devices located entirely within a building or structure, unless such devices are considered window, door or display signs; additionally, the term "sign" shall include all structural members used to erect or mount same.

Temporary sign means a sign of nonpermanent nature.

Sec. 28-3. - Purpose.

The town council find that:

- (1) Proper regulation of signs is a necessary prerequisite to a peaceable, orderly, and safely designed business environment.
- (2) An improperly regulated sign environment imposes health and safety dangers 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 that compete for the attention of pedestrian and vehicular traffic, and impede vision of traffic, traffic control signs and devices.
- (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.

Sec. 28-4. - Administration.

The provisions of this chapter shall be administered by the administrative officer for the town, or his designee.

Sec. 28-5. - Enforcement.

Citations for violation of this chapter may be issued by the administrative officer or a police officer of the town. The citation shall be returnable to and tried before the municipal court. Any person violating any provisions of this chapter shall, upon conviction, be fined in an amount, and/or imprisoned for such term as authorized by the town's Charter. Each day said violation shall continue shall constitute a separate offense.

Sec. 28-6. - Variances.

This chapter has been written with the community's uniqueness in mind.

- (1) The town council can authorize upon appeal in specific cases such variance from the terms of this chapter as will not be contrary to the public interest when, due to special conditions, a literal enforcement of the provisions of this chapter will, in an individual case, result in extreme and unusual hardship, so the spirit of this chapter shall be observed, public safety and welfare secured, and substantial justice done. The mere existence of a nonconforming sign or advertising device shall not constitute a valid reason to grant a variance. A variance may be granted in an individual case of extreme and unusual hardship not self-imposed upon a finding by the town council that the following conditions exist:
 - a. There exist extraordinary and exceptional conditions pertaining to the property in question resulting from its size, shape or topography which are not applicable to other lands or structures in the area;
 - b. A literal interpretation of the provisions of this chapter would deprive the applicant of rights commonly enjoyed by other similar properties in the town;

- c. Granting the variance requested will not confer upon the property of the applicant significant privileges which are denied to other similar properties in the town;
 - d. The requested variance will be in harmony with the purpose and intent of this chapter and will not be injurious to the neighborhood or to the general welfare;
 - e. The variance is not a request to permit a type of sign which otherwise is not permitted in the zoning districts involved;
 - f. The cause for the need for the variance is not created by the applicant, the owner, lessor or successor in ownership or occupancy.
- (2) All requests for such variances shall be in written form and filed for review by the town council at its next regular meeting at least ten days prior to said meeting. The burden of proof must fall on the applicant to show how a variance would benefit the entire town and not just the applicant.
 - (3) A variance application fee as provided in section 2-1 will be required if the application is approved.

Sec. 28-7. - Sign permits required.

- (a) *Required.* Except where specifically excluded by other provisions of this chapter, it shall be unlawful for any person to post, display, substantially change, alter, or erect a sign or advertising device in the town, without first having obtained a permit in the manner prescribed herein.
- (b) *Application for permits.* Application for permits shall be made upon forms provided by the town clerk, and shall contain or have attached thereto the following information:
 - (1) Name, address and telephone number of the applicant;
 - (2) Address of building, structure, or lot to which or upon which the sign is to be attached or erected;
 - (3) Position of the sign in relation to nearby buildings or structures;
 - (4) One accurate scale drawing of the plans, specifications, and method of construction and attachment to the building or ground for the sign as well as a scale drawing of the site showing driveways, structures, and any other limiting site features;
 - (5) Name of person, firm, corporation, or association erecting the sign;
 - (6) Name of and type of business to be conducted at the address where the sign is to be erected;
 - (7) Such other information as the town council shall require to show full compliance with this chapter and all other ordinances of the town.
- (c) *Fees.* Fees for permits shall be as provided in section 2-1.
- (d) *Issuance of permit.* Upon the filing of an application for a permit and the payment of all necessary fees as required by this section, the town council shall examine all plans and specifications submitted and the premises upon which the proposed sign is to be erected, and if it shall appear that the proposed sign is in compliance with all of the requirements of this chapter and all other ordinances and laws of the town, the permit shall be issued. If the work authorized under a permit has not been completed within six months after the date of issuance, the permit shall become null and void.
- (e) *Appeal procedure.* Any applicant who is dissatisfied by a decision of the town council must submit same in writing and shall be filed with the town clerk within ten days of the decision being appealed. The town council will schedule the matter for hearing within 45 days of the appeal being filed and at such meeting may continue the matter, affirm, reverse, or modify the determination.
- (f) *Exempt.* No permit shall be required for incidental use signs set out in section 28-8(1)a and c or accessory use signs described in section 28-8(2)a, provided they meet the requirements of this chapter and the provisions of the town building code.

Sec. 28-8. - Permitted signs.

The following signs shall be permitted provided they meet all other requirements of this chapter:

(1) *Incidental use signs.*

- a. Standard highway signs, street markers, or railroad crossing signs or signals, public use and semi-public use signs, authorized by the town, and the state department of transportation in the case of state routes, subject to all other requirements of this chapter. No other signs shall be permitted within the right-of-way of any street, road, or railroad.
- b. Directional or information signs of a public or quasi-public nature which by tradition and precedent are identified with promoting the general welfare of the town and which do not exceed 15 square feet in area, including, but not limited to, the following: the name and location of a public building, youth organization, church, or meeting place of an official or civic body.
- c. Signs of a temporary nature publicizing special events, festivals, or other community activities. All temporary signs shall be removed within two days following the conclusion of the event or activity for which they were posted.

(2) *Accessory use signs.*

- a. A non-illuminated sign, either freestanding or attached, not exceeding four square feet in area and pertaining only to the rent, lease, or sale of the premises upon which it is displayed.
- b. A business identification sign, either freestanding or attached, not exceeding eight square feet in area, on which the name and nature of a business operated on the premises as an accessory use are shown.

(3) *Principal use signs.*

- a. A business identification sign, either freestanding or attached, not exceeding 100 square feet in area, on which the name and nature of the business operated on the premises as the principal use are shown.
- b. Off-premises signs will be allowed with permission of the landowner and if they meet all other regulations, state and/or local, and do not exceed a total of 100 square feet.
- c. Marquee or projecting signs which overhang a sidewalk, driveway, or other passageway used by either pedestrians or automotive vehicles and those which project more than 12 inches over publicly-owned property shall be permitted only upon approval of the town council.

(4) *Conditional use signs.* Billboards and principal use signs exceeding the dimensions set out in subsection (3) of this section may be allowed under certain circumstances after review and approval of the town council, as a conditional use for a temporary period only.

Sec. 28-9. - Sign restrictions.

The following sign restrictions shall apply in the town:

- (1) No setback exceptions are recognized.
- (2) To keep the town from clutter, a 40-foot buffer zone for signs shall be established on each individual parcel of property, excluding signs erected by the town. For reasons of safety, the following restrictions shall be observed in the construction, erection and maintenance of signs:
 - a. No flashing, intermittent or rotating lights shall be used on any sign or structure. No portable illuminated signs shall be permitted except as provided under section 28-8(1)c.
 - b. Any illuminated sign or structure shall be placed so that the rays and illumination therefrom shall not be cast upon neighboring dwellings.

- c. No sign shall be placed where it will interfere with vision clearance along any highway, street or road or obstruct the vision of either drivers or pedestrians at intersections of roads, streets, highways, alleys, or railroad crossings.
- d. No sign shall be erected, constructed or maintained so as to obstruct any fire escape or any window or door or opening used as an entrance or exit of a building or a means of ingress or egress for firefighting purposes. No sign shall be attached in any form, shape, or manner to a fire escape or be so placed as to interfere with any opening required for legal ventilation.
- e. No sign shall be painted on or affixed to any natural feature such as trees and rocks.
- f. No political signs shall be erected or placed on any property except private authorized property.
- g. No sign height shall be greater than 20 feet from the base of the sign or 20 feet from the right-of-way, whichever is higher.

Sec. 28-10. - Maintenance of signs.

- (a) Due to the historic and natural beauty of the town, all signs must tastefully blend with the town setting. This will exclude plastic, poly, resin signs illuminated from within. All signs must be preapproved by vote of the town council.
- (b) All signs, together with any supports, guy wires, braces, and anchors shall be kept in good repair, be visually harmonious with the surrounding area from all visible sides, and in a safe state of preservation. Should any sign become insecure or in danger of falling or otherwise unsafe in the opinion of the administrative officer, the owner thereof, or the person or firm maintaining the sign, shall, upon written notice from the administrative officer, forthwith in the case of immediate danger and in any case within ten days, remove the sign under the instruction of the appropriate official at the expense of the owner or lessee thereof.

Sec. 28-11. - Unlawful signs.

- (a) In case any sign shall be installed, erected or constructed in violation of any of the terms of this chapter or the town building code, the administrative officer shall notify by certified mail or written notice served personally, the owner or lessee thereof to alter such sign so as to comply with this chapter and the building code and to secure the necessary permit, make required alterations, or remove the sign. If such order is not complied with in ten days, the sign shall be removed under instruction of the appropriate official at the expense of the owner or lessee thereof.
- (b) All applicable sign applicants meeting town regulations must also comply with department of transportation regulations.

Sec. 28-12. - Nonconforming signs.

The following provisions shall apply to all existing signs which are not in conformance with this chapter:

- (1) Grandfather clause. All preexisting signs in violation of this chapter shall be grandfathered in effective July 9, 1998.
- (2) No change shall be made in the size, copy or text of any nonconforming sign, nor shall any structural changes be made in such a sign unless the sign is brought into compliance with the provisions of this chapter.
- (3) A change of status as owner, lessor, lessee or user of property served by the sign subsequent to the adoption of the ordinance from which this chapter is derived shall negate any such nonconforming status, and the sign shall be removed or brought into compliance with the provisions of this chapter.

- (4) Any nonconforming sign declared to be unsafe by the town council shall be removed or rendered safe and brought into compliance with the provisions of this chapter.
- (5) No nonconforming sign damaged by fire or other causes to the extent of more than its appraised value shall be repaired or rebuilt except in compliance with this chapter.
- (6) Any sign erected in violation of this chapter may be removed from any public property or right-of-way by administrative officer and the responsible party may be cited for such violation.
- (7) No additional 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 brought into conformity with this chapter.
- (8) No sign permit may be granted to any applicant, where there exists on the subject property a nonconforming sign, as defined in this chapter, an illegal sign, an unpermitted sign, a damaged sign, a sign in need of repair or painting, or a sign in violation of section 28-13. Subject property shall mean the property on which the proposed sign is to be placed, or on which the activity to be advertised is located.

Sec. 28-13. - Removal of certain signs.

- (a) Any sign which no longer advertises a bona fide activity, or any sign which has become dilapidated, or by its condition and state of repair is deemed to be dangerous, and any sign which has been erected in a manner which fails to meet the requirements of this chapter may be removed by the administrative officer provided some reasonable attempt has been made to have such sign removed by the owner thereof, and provided further that such removal can be made without damage to any property or sign. Any sign removed under the foregoing provision shall be stored by the town at the expense of the sign owner or landowner upon which said sign is located.
- (b) In the case of a sign which cannot be removed without risk of property damage and in the case of signs removed and stored as provided herein, the administrative officer shall cause notice of the same to be mailed to the owner of the sign if the same may be determined or to the owner of the property upon which said sign is located of the impending action pertaining to said sign. Owners shall be given ten days from the date of receipt of such notice to take appropriate remedial action.
- (c) After notification as herein prescribed, the administrative officer shall cause such signs to be removed and disposed of in the manner provided by law for the disposition of abandoned personal property.
- (d) No sign removed under the provisions hereof shall be returned to the owner until all expenses incurred in the removal and storage of same have been paid.

Sec. 28-14. - Signs permitted by zoning district.

- (a) In R-I, R-II, SL, PUD, FH and A districts, the following signs shall be permitted:
 - (1) Incidental use signs.
 - (2) Accessory use signs.
 - (3) Off-premises signs.
- (b) In BD and HB districts, all signs set forth in this chapter shall be permitted.

Chapter 30 - SOLID WASTE⁽¹⁾

Footnotes:

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State Law reference— Solid Waste Management Act, O.C.G.A. § 12-8-20 et seq.; hazardous waste disposal, O.C.G.A. § 12-8-61 et seq.; littering, O.C.G.A. § 16-7-42 et seq.

Sec. 30-1. - Littering.

- (a) It shall be unlawful for any person to litter within the town limits. Littering as defined herein, includes, but is not limited to:
 - (1) Discarding of refuse, trash, garbage, paper, box containers, cans, bottles, bottle caps or other debris on the streets, sidewalks, and other public property owned by the town or on property of other persons within the town limits.
 - (2) Discarding of packaging materials or products by persons to include discarding or packaging materials in the streets within the town.
- (b) The provisions of this section shall not apply in times when persons place garbage, trash, or refuse on the edge of their property near the town streets for the purpose of such garbage, trash, or refuse being picked up by the town.
- (c) Violations of this section shall be punishable by a fine not less than \$100.00 for each offense and by appropriate community service which could include picking up litter throughout the town for a period of time to be established by the municipal judge.

(Ord. of 6-8-1995, § 1-13)

State Law reference— Littering, O.C.G.A. § 16-7-42 et seq.; local litter control, O.C.G.A. § 16-7-48.

Chapter 32 - STREETS AND SIDEWALKS^[1]

Footnotes:

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State Law reference— Municipal street system, O.C.G.A. § 32-4-90 et seq.

Sec. 32-1. - Use of Old Highway 441 bridges.

- (a) No person shall use the Old Highway 441 bridges crossing the Tallulah River as a platform from which to dive or jump into the Tallulah River.
- (b) No person shall use the Old Highway 441 bridges crossing the Tallulah River in any manner except that for which it was intended.
- (c) No person shall use the Old Highway 441 bridges crossing the Tallulah River for the purpose of fishing.
- (d) No person shall climb any structure supporting the Old Highway 441 bridges crossing the Tallulah River, nor shall any person climb outside of the outside guardrail for any purpose.

(Ord. of 8-1-1983, §§ 1—4)

Chapter 34 - TELECOMMUNICATIONS

ARTICLE I. - IN GENERAL

Secs. 34-1—34-18. - Reserved.

ARTICLE II. - TELECOMMUNICATIONS TOWERS AND ANTENNAS

Sec. 34-19. - Purpose and findings.

This article is designed and intended to balance the interests of the residents of the town, telecommunications providers and telecommunications customers in the siting of telecommunications facilities within the town so as to protect the health, safety and integrity of residential neighborhoods and foster, through appropriate zoning and land use controls, a competitive environment for telecommunications carriers that does not unreasonably discriminate among providers of functionally equivalent personal wireless services and shall not prohibit or have the effect of prohibiting the provision of personal wireless services, and so as to promote the town as a proactive town in availability of personal wireless telecommunications service. To that end, this article shall:

- (1) Provide for the appropriate location and development of telecommunications facilities in the town;
- (2) Protect the town beauty and natural environment by promoting compatible design standards for telecommunications facilities;
- (3) Minimize adverse visual impacts of telecommunications facilities through careful design, siting, landscape screening and innovative camouflaging techniques;
- (4) Avoid potential damage to adjacent properties from tower or antennae failure through engineering and careful siting of telecommunications tower structures and antennae;
- (5) Maximize use of any new and existing telecommunications towers so as to minimize the need to construct new towers and minimize the total number of towers throughout the town;
- (6) Maximize and encourage use of alternative telecommunication tower structure as a primary option rather than construction of additional single use towers; and
- (7) Mandate the location of new telecommunications facilities in areas which are not zoned for residential use.

Sec. 34-20. - 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:

Administrator means the town council, which serves as the administrator of the planning and zoning commission, or its designee.

Antenna means any exterior apparatus designed for the sending and/or receiving of electromagnetic waves for telephonic, radio, television, or personal wireless services. For the purposes of this article the term "antenna" does not include any tower and antenna under 70 feet in total height which is owned and operated by an amateur radio operator licensed by the Federal Communications Commission, any device designed for over-the-air reception of radio or television broadcast signals, multichannel multipoint distribution service or direct broadcast satellite service, or any cable television headend or hub towers and antennae used solely for cable television services.

Governing body means the town council.

Macro telecommunications facilities are those which are located on existing buildings, poles or other existing support structures and which project more than three feet above the top of the structure but no more than ten feet above the roofline, parapet or top of the structure. Macro telecommunication facilities may exceed the height limitation specified for the zoning district.

Micro telecommunications facilities are those which are located on existing buildings, poles or other existing support structures where antennae do not project more than three feet above the top of the structure and there are no more than six antennae per site.

Monopole tower means a telecommunications tower consisting of a single pole, constructed without guy wires or ground anchors.

Telecommunications facilities refers to antennae and towers, either individually or together.

Tower means a structure, such as a lattice tower, guy tower, or monopole tower, constructed as a freestanding structure or in association with a building, other permanent structure or equipment, on which is located one or more antennae intended for transmitting or receiving analog, digital, microwave, cellular, telephone, personal wireless service or similar forms of electronic communication. The term "tower" includes microwave towers, common carrier towers, and cellular telephone towers.

Sec. 34-21. - Exclusions.

The following shall be exempt from this article.

- (1) Any tower and antenna under 70 feet in total height which is owned and operated by an amateur radio operator licensed by the Federal Communications Commission;
- (2) Any device designed for over-the-air reception of television broadcast signals, multichannel multipoint distribution service or direct broadcast satellite service;
- (3) Any telecommunications facilities located on property owned, leased or otherwise controlled by the town provided a license or lease authorizing the telecommunications facility has been approved by the town council; or
- (4) Any cable television headend or hub towers and antennae used solely for cable television services.

Sec. 34-22. - Placement of telecommunications facilities by zoning district.

- (a) In business and highway business zoning districts, micro and macro telecommunications facilities shall be allowed as a use by right following design review by and receipt of a building permit from the town council. Monopole towers up to a height of 50 feet are permitted as a special use following design review by and receipt of a building permit from the town council and monopole towers up at a height of 80 feet designed and intended to accommodate at least two users are permitted as a special use following design review by and receipt of a building permit from the town council.
- (b) In multi-family residential and agricultural zoning districts, micro and macro telecommunications facilities shall be allowed as a use by right following design review by and receipt of a building permit from the town council. Monopole towers up to a height of 50 feet are permitted as a special use following design review by and receipt of a building permit from the town council.
- (c) In single-family residential and planned unit development zoning districts, micro telecommunications facilities shall be allowed as a use by right on nonresidential structures following design review by and receipt of a building permit from the town council. Macro telecommunications facilities shall be allowed as a special use on nonresidential structures following design review by and receipt of a building permit from the town council.
- (d) Telecommunications facilities outside the guidelines listed above may only be built following design approval by and receipt of a building permit from the town council.

Sec. 34-23. - Preferred and disfavored location sites.

(a) *Preferred location sites.*

- (1) *Co-location sites.* Any existing telecommunications towers currently being used for transmitting or receiving analog, digital, microwave, cellular, telephone, personal wireless service or similar forms of electronic communication shall be a preferred location site regardless of the underlying

zoning designation of the site; provided, however, that locations which meet this criteria shall be subject to the design and siting components of this article and co-location sites shall not become an "antenna farm" or otherwise be deemed by the town council to be visually obtrusive.

- (2) *Publicly-used structures.* Publicly-used structures are preferred locations throughout the town because they appear in virtually all neighborhoods, are dispersed throughout the town, and due to their institutional or infrastructure uses are generally similar in appearance to or readily adaptable for telecommunications facilities. Therefore, telecommunications facilities should be less noticeable when placed on publicly-used structures than when placed on commercial or residential structures. Publicly-used structures include, but are not limited to, facilities such as police or fire stations, libraries, community centers, civic centers, courthouses, utility structures, water towers, elevated roadways, bridges, flag poles, schools, hospitals, clock or bell towers, light poles and churches.
 - (3) *Industrial and commercial structures.* Wholly industrial and commercial structures such as warehouses, factories, retail outlets, supermarkets, banks, garages, or service stations shall be preferred locations particularly where existing visual obstructions or clutter on the roof or along a roofline can and will be removed as part of the installation of the telecommunications facility.
 - (4) *Mixed use buildings in high density districts.* Mixed use buildings (housing above commercial or other nonresidential space) are also preferred location sites.
- (b) *Disfavored location sites.* Any single-family residential structure or site or multi-family duplex shall be a disfavored site for the location of telecommunications facilities.

Sec. 34-24. - Requirements for telecommunications facilities.

The requirements set forth in this section shall govern the location and construction of all telecommunications facilities governed by this article.

- (1) *Building codes and safety standards.* To ensure the structural integrity of telecommunications facilities, the owner of a telecommunications facility shall ensure that it is maintained in compliance with standards contained in applicable local building codes and applicable standards for such telecommunications facilities, as amended from time to time. Owners of telecommunications facilities shall conduct periodic inspections of such facilities at least once every year to ensure structural integrity. Inspections shall be conducted by a qualified, independent engineer licensed to practice in the state. The results of such inspection shall be provided to the town council every 12 months. Failure to comply can result in the removal of a telecommunications facility at the owner's expense.
- (2) *Regulatory compliance.*
 - a. All telecommunications facilities must meet or exceed current standards and regulations of the FAA, the FCC and any other agency of the state or federal government with the authority to regulate telecommunications facilities. If such standards and regulations are changed, then the owners of the telecommunications facilities governed by this article shall bring such telecommunications facilities into compliance with such revised standards and regulations within the date established by the agency promulgating the standards or regulations.
 - b. Owners of telecommunications facilities shall provide documentation showing that each telecommunications facility is in compliance with all applicable federal and state requirements. Evidence of compliance must be submitted every 12 months.
- (3) *Security.* All telecommunications facilities shall be equipped with an appropriate anti-climbing device or other similar protective device to prevent unauthorized access to the telecommunications facility.
- (4) *Lighting.* No illumination is permitted on telecommunications facilities unless required by the FCC, FAA or other state or federal agency of competent jurisdiction or unless necessary for air traffic safety. If lighting is required or necessary, the town council shall review the available

lighting alternatives and approve the design that would cause the least disturbance to the surrounding uses and views.

- (5) *Advertising.* No advertising is permitted on telecommunications facilities. However, a whip antenna may be allowed on any legally permitted permanent billboard or outdoor advertising sign as long as the other requirements of this article are met.
- (6) *Visual impact.*
 - a. Telecommunications facilities shall either maintain a galvanized steel finish or, subject to any applicable standards of the FAA or other applicable federal or state agency, be painted a neutral color or painted and/or textured to match the existing structure so as to reduce visual obtrusiveness.
 - b. If an antenna is installed on a structure other than a tower, the antenna and associated electrical and mechanical equipment must be of a neutral color that is identical to, or closely compatible with, the color of the supporting structure so as to make the antenna and related equipment as visually unobtrusive as possible. Roof-mounted antennas shall be made visually unobtrusive by screening to match existing air conditioning units, stairs, elevator towers or other background.
 - c. Where feasible, telecommunications facilities should be placed directly above, below or incorporated with vertical design elements of a building to help in camouflaging.
 - d. Any equipment shelter or cabinet that supports telecommunications facilities must be concealed from public view or made compatible with the architecture of the surrounding structures or placed underground. Equipment shelters or cabinets shall be screened from public view by using landscaping or materials and colors consistent with the surrounding backdrop. The shelter or cabinet must be regularly maintained.
- (7) *Placement near historic or scenic corridors.* Telecommunications facilities shall not be placed in a direct line of sight with historic or scenic corridors as designated by the town council or by any state or federal law or agency.
- (8) *Landscaping.*
 - a. Landscaping shall be used to effectively screen the view of the telecommunications facility from adjacent public ways, public property and residential property.
 - b. Native vegetation on the site shall be preserved to the greatest practical extent. The applicant shall provide a site plan showing existing significant vegetation to be removed, and vegetation to be replanted to replace that which was lost.
 - c. The town council may waive or modify the landscaping requirement where lesser requirements are desirable for adequate visibility for security purposes, for continued operation of existing bona fide agricultural or forest uses such as farms, nurseries and tree farms or where an antenna is placed on an existing structure. In certain locations where the visual impact of the tower would be minimal, such as remote agricultural or rural locations or developed heavy industrial areas, the landscaping requirement may be modified or waived by the town council.
 - d. In the event a telecommunications facility has a negative impact on adjacent property, either visually or physically, the adjacent landowner has the right of fair market value compensation under the current laws of the state.
- (9) *Maintenance impacts.* Equipment at a transmission facility shall be automated to the greatest extent possible to reduce traffic and congestion. Where the site abuts or has access to a collector or local street, access for maintenance vehicles shall be exclusively by means of the collector or local street.
- (10) *Principal, accessory and joint uses.*

- a. Accessory structures used in direct support of a telecommunications facility shall be allowed but not be used for offices, vehicle storage or other outdoor storage. Mobile or immobile equipment not used in direct support of a telecommunications facility shall not be stored or parked on the site of the telecommunications facility.
- b. Telecommunications facilities may be located on sites containing another principal use in the same buildable area.

(11) *Lot size and setbacks.*

- a. The following setback requirements shall apply to all telecommunications facilities; provided, however, that the town council may reduce the standard setback requirements of this section if the goals of this article would be better served thereby.
 1. Telecommunications towers must be set back a distance equal to the height of the tower from any off-site residential structure.
 2. Towers, guy wires and accessory facilities must satisfy the minimum zoning district setback requirements.
 3. Telecommunications facilities must be setback from any property line a sufficient distance to protect adjoining property from the potential impact of telecommunications facility failure by being large enough to accommodate such failure on the site, based on the engineer's analysis required herein and outlined above.
- b. For antennas attached to the roof or a supporting structure on a rooftop, a 1:1 setback ratio (example: ten-foot-high antenna and supporting structure required ten-foot setback from edge of roof) shall be maintained unless an alternative placement is shown to reduce visual impact.

Sec. 34-25. - Additional requirements for towers.

- (a) Site location and development shall preserve the preexisting character of the surrounding buildings and land uses and the zone district as much as possible. Personal wireless telecommunication towers shall be integrated through location and design to blend in with existing characteristics of the site to the extent practical.
- (b) Existing on-site vegetation shall be preserved or improved, and disturbance of the existing topography shall be minimized, unless such disturbance would result in less visual impact of the site to the surrounding area.
- (c) At a tower site the design of the buildings and related structures shall, to the extent possible, use materials, colors, textures, screening, and landscaping that will blend the tower and related facilities to the natural setting and built environment.
- (d) Towers shall not be located any closer than 1,500 feet from an existing tower unless technologically required or visually preferable.
- (e) When a tower is adjacent to a residential use, it must be set back from the nearest residential lot line a distance at least equal to its total height.
- (f) In no case shall a tower be located in the required front yard, back yard or side yard in a residential district.
- (g) Towers shall not be sited where they will negatively affect historic or scenic view corridors as designated by the town council or any state or federal law or agency or where they will create visual clutter.
- (h) Towers shall be enclosed by decay-resistant security fencing not less than six feet in height and shall be equipped with an appropriate anti-climbing device or other similar protective device designed to prevent tower access.

- (i) Placement of more than one tower on a lot shall be permitted, provided all setback, design and landscape requirements are met as to each tower. Structures may be located as close to each other as technically feasible, provided tower failure characteristics of the towers on the site will not lead to multiple failures in the event that one fails.
- (j) No telecommunications facility can be transferred by sale or lease to another individual, company, or entity without following application procedures, review and approval of the town council.

Sec. 34-26. - Application procedures.

Application for a building permit or special use permit for any telecommunications facility shall be made to the town council by the person, company or organization that will own and operate the telecommunications facility. An application will not be considered until it is complete. The following information shall be submitted when applying for any building permit, special use permit or other permit or variance included in this article and must be submitted for an application to be considered complete:

(1) *Basic information.*

- a. Site plan to scale specifying the location of telecommunications facilities, transmission building and/or other accessory uses, access, parking, fences, landscaped areas, and adjacent land uses. Applicants shall submit both a paper location map and a digitized location map in a format compatible with the GIS software currently utilized by the town information technology services department.
- b. Landscape plan to scale indicating size, spacing and type of planting as required and outlined above.
- c. A full description of the environment surrounding the proposed telecommunications facility, including any adjacent residential structures and districts, structures and sites of historic significance, streetscapes or scenic view corridors.
- d. A description of anticipated maintenance needs for the telecommunications facility, including frequency of service, personnel needs, equipment needs, and traffic, noise or safety impacts of such maintenance.
- e. Report from a qualified, independent engineer licensed in the state, documenting the following:
 - 1. Telecommunications facility height and design, including technical, engineering, economic, and other pertinent factors governing selection of the proposed design;
 - 2. Total anticipated capacity of the telecommunications facility, including number and types of antennae which can be accommodated;
 - 3. Evidence of structural integrity of the tower structure;
 - 4. Structural failure characteristics of the telecommunications facility and demonstration that site and setbacks are of adequate size to contain debris;
 - 5. Soil and geological surveys of proposed site by a qualified, independent engineer licensed in the state, soil scientist or geologist; and
 - 6. Archeological survey of proposed site by independent archeologist.
- f. A definition of the area of service to be served by the antenna or tower and whether such antenna or tower is needed for coverage or capacity.
- g. Information showing the proposed facility would provide the needed coverage or capacity.
- h. The identity of a community liaison officer appointed by the applicant to resolve issues of concern to neighbors and residents relating to the construction and operation of the facility. Include name, address, telephone number, facsimile number and electronic mail address, if applicable.

- i. Identification of the geographic service area for the subject installation, including a map showing the site and the nearest or associated telecommunications facility sites within the network. Describe the distance between the telecommunications facility sites. Describe how this service area fits into and is necessary for the service network.
 - j. Designation of which location preference, identified above, the proposed facility is meeting. If the proposed location is not a preferred location or is a disfavored site, describe:
 - 1. What publicly-used building, co-location site or other preferred location sites are located within the geographic service area. Provide a list (by address with lot and block number noted) and a map at 1:200 scale of all such buildings within the service area;
 - 2. What good faith efforts and measures were taken to secure each of these preferred location sites;
 - 3. Why each such site was not technologically, legally or economically feasible and why such efforts were unsuccessful; and
 - 4. How and why the proposed site is essential to meet service demands for the geographic service area and town-wide network.
- (2) *Five-year plan and site inventory.* Each application shall include a five-year facilities plan and site inventory including the following:
- a. A list of all existing, existing to be upgraded or replaced, and proposed telecommunications facility sites within the town limits and within one mile of the town limits and a map showing these sites. The list must include the following information for each site:
 - 1. Street address;
 - 2. Assessor's block and lot or other applicable ad valorem tax identification number;
 - 3. Zoning district;
 - 4. Type of building (commercial, residential, mixed use) and number of stories;
 - 5. The number of antennas and base transceiver stations per site and the location and type of antenna installation (stand along, rooftop, building facade, etc.), and the location of the base transceiver station installation;
 - 6. The height from grade to the top of the antenna installation; and
 - 7. The radio frequency range in megahertz, the wattage output of the equipment and effective radiated power.
 - b. If the applicant does not know specific future tower and antenna site locations but does know of areas where telecommunications facilities will be needed within the next five years to provide service, the applicant shall list the assessor's blocks contained within the anticipated geographic service area and identify each geographic service area with a number that will correspond to the future telecommunications facility site.

Sec. 34-27. - Additional information requirements for towers.

- (a) If the proposed site is zoned R-1 and R-2 and there are alternative sites in A, BD or HB, applicants must justify why those alternate sites have not been proposed. The town council will review with special care justifications that appeal only to undue expense and/or to undue difficulties in entering into a lease agreement. The town council shall carefully weigh such claims, and the evidence presented in favor of them, against a project's negative impacts at the proposed site.
- (b) Applicants must identify all existing towers and all towers for which there are applications currently on file the administrator. Applicants must provide evidence of the lack of space on all suitable existing towers to locate the proposed antenna and of the lack of space on existing tower sites to construct a tower for the proposed antenna. If co-location on any such towers would result in less

visual impact than the visual impact of the proposed tower, applicants must justify why such co-location is not being proposed. If co-location on any such tower would increase negative visual impact, then the applicant must so state and demonstrate. The town council will review with special care justifications that appeal only to undue expense and/or to undue difficulties in entering into a lease agreement. The town council shall carefully weigh such claims, and the evidence presented in favor of them, against a project's negative impacts at the proposed site.

- (c) In all zones, applicants must demonstrate that they cannot provide personal wireless communication service without the use of a telecommunications tower.
- (d) The applicant shall quantify the additional tower capacity anticipated, including the approximate number and types of antennae. The applicant shall provide a drawing for each tower showing existing and proposed antennae locations. The applicant shall also describe any limitations on the ability of the tower to accommodate other uses, e.g., radio frequency interference, mass height, frequency or other characteristics. The applicant shall describe the technical options available to overcome those limitations and reasons why the technical options considered were not chosen to be incorporated. The town council shall approve those limitations if they cannot be overcome by reasonable technical means.
- (e) The applicant must provide a utilities inventory showing the locations of all water, sewage, drainage and power lines impacting the proposed tower site.
- (f) The applicant must provide any other information which may be requested by the town council to fully evaluate and review the application and the potential impact of a proposed telecommunications facility.

Sec. 34-28. - Expedited review for building permits only.

When a telecommunications facility will be used as a right pursuant to section 34-22 and requires only a building permit and design review before it may be erected, the town council will expedite review of the application and render a decision on the application within 14 business days after receipt of a complete application.

Sec. 34-29. - Special use permits.

- (a) A request for a special use permit shall be initiated by application to the administrator and handled in accordance with the special use permit provision of the zoning regulations set forth in appendix A to this Code. The town council may issue a special use permit under this section provided it shall have determined that all of the requirements of the zoning regulations set forth in appendix A to this Code have been satisfied and, further, that the benefits of and need for the proposed tower are greater than any possible depreciating effects and damage to the neighboring properties.
- (b) In granting a special use permit, the town council may impose additional zoning conditions to the extent determined necessary to buffer or otherwise minimize adverse effects of the proposed tower or antenna on surrounding properties.

Sec. 34-30. - Co-location.

The applicant and owner shall allow other future personal wireless service companies, including public and quasi-public agencies, using functionally equivalent personal wireless technology to co-locate antennae, equipment and facilities on a telecommunications facility unless specific technical constraints prohibit said co-location. The applicant and other personal wireless carriers shall provide a mechanism for the construction and maintenance of shared facilities and infrastructure and shall provide for equitable sharing of costs in accordance with industry standards.

Sec. 34-31. - Removal of antennae and towers.

All telecommunications facilities shall be maintained in compliance with standards contained in applicable building and technical codes so as to ensure the structural integrity of such facilities. Upon

failure to maintain telecommunications facilities pursuant to this article, the town may seek to have the telecommunications facility removed regardless of the owner's or operator's intent to operate the tower or antenna and regardless of any permits, federal, state or otherwise, which may have been granted.

Sec. 34-32. - Abandoned towers.

- (a) Any telecommunications facility that is not operated for a continuous period of 12 months shall be considered abandoned, whether or not the owner or operator intends to make use of it or any part of it. The owner of a telecommunications facility and the owner of the property where the facility is located shall be under a duty to remove the abandoned telecommunications facility. If such antenna and/or tower is not removed within 60 days of receipt of notice from the town notifying the owner of such abandonment, the town may remove such tower and/or antenna and place a lien upon the property for the costs of removal. The town may pursue all legal remedies available to it to ensure that abandoned telecommunications facilities are removed. Delay by the town in taking action shall not in any way waive the town's right to take action. The town may seek to have the telecommunications facility removed regardless of the owner's or operator's intent to operate the tower or antenna and regardless of any permits, federal, state or otherwise, which may have been granted.
- (b) If the owner of an abandoned tower or antenna wishes to use such abandoned tower or antenna, the owner first must apply for and receive all applicable permits and meet all of the conditions of this article as if such tower or antenna were a new tower or antenna.

Sec. 34-33. - Preexisting towers/nonconforming uses.

- (a) All telecommunications facilities operative on the effective date of the ordinance from which this article is derived shall be allowed to continue their present usage as a nonconforming use and shall be treated as a nonconforming use in accordance with the zoning regulations set forth in appendix A to this Code. New construction other than routine maintenance shall comply with the requirements of this article.
- (b) Placement of an antenna on a nonconforming structure shall not be considered an expansion of the nonconforming structure.
- (c) Should future technology negate the effectiveness or function of a preexisting telecommunications facility then said telecommunications facility shall be removed at the owner's expense regardless of the owner or operator's intent and regardless of any permits which may have been granted by the town council.

Sec. 34-34. - Penalty for violation of article.

- (a) Any person who attempts to erect or erects a telecommunications facility covered by this article without having first obtained the necessary building permit, special use permit or variance in the manner provided in this article shall be guilty of a misdemeanor.
- (b) If any structure is erected, constructed, reconstructed, altered, repaired, converted or maintained in violation of this article or without obtaining that required permits, or if any building, structure or land is used in violation of this article, the town attorney, in addition to any other remedies, may institute proceedings to prevent such unlawful erection, construction, reconstruction, alteration, conversion, maintenance or use or to correct or abate such violations. Each and every day such unlawful erection, construction, reconstruction, alteration, conversion, maintenance or use continues may be deemed a separate offense.

Sec. 34-35. - Coordination with federal law.

Whenever the town council finds that the application of this article would unreasonably discriminate among providers of functionally equivalent personal wireless services or prohibit or have the effect of prohibiting the provision of personal wireless services, a conditional use permit waiving any or all of the provisions of this article may be granted.

Chapter 36 - TRAFFIC AND VEHICLES¹¹

Footnotes:

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State Law reference— Traffic generally, O.C.G.A. § 40-1-1 et seq.; power of local authorities generally, O.C.G.A. § 40-6-371.

Sec. 36-1. - Uniform rules of the road.

- (a) *Adoption by reference.* Pursuant to O.C.G.A. §§ 40-6-372—40-6-376, O.C.G.A. title 40, ch. 6 (O.C.G.A. § 40-6-1 et seq.) and the definitions contained in O.C.G.A. § 40-1-1, are hereby adopted as and for the traffic regulations of the town with like effect as if recited herein.
- (b) *Penalties.* Unless another penalty is expressly provided by law, any person convicted of a violation of any provision of this section shall be guilty of a misdemeanor.

Sec. 36-2. - Traffic signs, signals, devices and markings.

The location and existence of all traffic control signs, signals, devices and markings as of the effective date of this Code are ratified and confirmed.

Sec. 36-3. - Certain trucks prohibited by weight and/or length.

- (a) It shall be unlawful for any trucks exceeding the weight and/or length restrictions for the roadway listed below from traveling upon all streets within the town.
 - (1) Maximum 18 tons and/or 40 feet in combined length.
- (b) If a delivery cannot be completed by other means within this section, the chief of police may issue a temporary permit to exceed the maximum limits. Upon receipt of a request for an exception, the chief of police shall approve or deny the request within ten days. The decision of the chief of police may be appealed to the town council.
- (c) Violations of this section can result in a fine up to \$1,000.00 per occurrence or imprisonment up to 60 days plus cost of all repairs to damaged streets.

(Ord. of 8-4-2005)

Sec. 36-4. - Parking on sidewalks, pedestrian malls prohibited.

It shall be unlawful to park a vehicle upon any sidewalk or pedestrian mall situated upon a public right-of-way.

State Law reference— Authority to regulate parking, O.C.G.A. § 40-6-371(a)(1).

Chapter 38 - UTILITIES

ARTICLE I. - IN GENERAL

Secs. 38-1—38-18. - Reserved.

ARTICLE II. - WATER SYSTEM

Sec. 38-19. - 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:

Commercial use shall apply to any property that is zoned in the town for a commercial use or, regardless of zoning, is put to a commercial use.

Customer means the occupant of the property; if no occupant, then the user, if no user, then the owner.

Outside the town means any water connection within or without the town where any part of the water is consumed outside the town limits.

Residential use shall apply to any property that is zoned in the town for a residential use, unless the property is being put to a commercial use.

Sec. 38-20. - Water system manager.

- (a) *Appointment.* The town council shall appoint a person who shall serve at their pleasure as the manager of the public water system.
- (b) *Duties.* The water system manager shall be responsible for the efficient operation of the public water system. His duties shall include, but not be limited to, the supervision of water system maintenance and the administration of water system billing procedures.
- (c) *Office.* The water system manager shall maintain an office at the town hall at which applications for service may be received.

Sec. 38-21. - Application for water service.

The consumer shall make application for water service in person at the office of the water system manager in the town hall.

Sec. 38-22. - Security deposit.

- (a) Applications for water service shall not be considered unless accompanied by the payment of a cash security deposit as specified in section 2-1. A refund of said deposit shall be made to any user who establishes a good payment record over a two-year period, said record to be considered and refunds to be authorized by the water system manager.
- (b) In the event of a history of delinquent payments, the water system manager may require a supplemental security deposit in an amount sufficient to cover any and all such delinquent balances.
- (c) When water service has been discontinued by the request of the consumer, or by action of the office of the water system manager, the security deposit will be refunded to the consumer only after all outstanding bills and charges have been paid in full.
- (d) Should water service be discontinued at the request of the user, the deposit shall be forfeited by the user if not claimed within one year after date of termination.

Sec. 38-23. - Cross connections.

- (a) All applicants for water service must offer proof that any private wells, springs, or other sources of water on their property are not physically connected to the lines of the town water system, neither directly nor indirectly. Further, all applicants, by becoming clients of the public water system in so doing covenant and agree, for so long as they continue to be clients of said system, that they shall not permit any such cross connection to occur on their property or premises.

- (b) The maintenance of such a cross connection after the adoption of the ordinance from which this article is derived shall result in the interruption of water service to the offending consumer until such time as the provisions of this article which deal with cross connections have been complied with. Those consumers who prove to be subject to said disconnection shall be notified in writing not less than one week prior to disconnection.

Sec. 38-24. - System tap fees.

- (a) The charge for obtaining a three-fourths-inch standard metered tap shall be as provided in section 2-1, plus the cost of the installation of the necessary lines and equipment and larger meter which may be required to extend the public water system to the applicant's premises. The fee does not include the security deposit. The water system manager will determine the size of the meter to be installed by the town.
- (b) When the water distribution line does not run immediately adjacent and parallel to the property to be served, the town may be required to make necessary connections upon payment of reasonable costs for the extensions of its water distribution line as may be required to render such service. The town shall pay a maximum amount as provided in section 2-1 to defray the expense of making said connection. The consumer must remain a customer of the town water system for a period of at least two years or reimburse the town for any and all monies expended to render service.
- (c) Each single-family residence shall pay a tap-on fee as provided in section 2-1.
- (d) Each multi-family dwelling shall pay a tap-on fee as provided in section 2-1 per family unit in addition to the costs set out in subsection (a) of this section. If the multi-family dwelling is on one meter, each occupied family unit shall pay the minimum charge for water used and their proportionate share of the water used over the minimum as set out in this article.
- (e) There shall be no unauthorized tapping of water lines. Should unauthorized tapping occur, then the water system manager shall make an investigation to determine that the unauthorized tap was done to town specifications and shall determine the fees chargeable to the user who made said unauthorized tap, and the manager shall collect said fees.

Sec. 38-25. - Change of occupancy.

Not less than three days' notice shall be given, in person or in writing, to the office of the water system manager of the intent of the consumer to discontinue water service. The outgoing consumer shall be responsible for water used up to the time he actually quits the premises. The new occupant or consumer shall apply for water service within 24 hours after occupying the premises. Should the consumer fail to so apply, said consumer shall then be charged with all the water consumed on said premises since the last meter reading; and said charge shall be added to his initial water bill.

Sec. 38-26. - Discontinuing water service.

At the request of the consumer, not less than three days' notice shall be given, in person or in writing, to the office of the water system manager of the desire of the consumer to discontinue water service. The outgoing consumer shall be responsible for water used up to the time he actually quits the premises.

Sec. 38-27. - Authority of water system manager.

The town, through the office of the water system manager:

- (1) Reserves the right to discontinue its water service upon 24 hours' notice for any of the following:
- a. To construct system modifications or to perform routine system maintenance;
 - b. To perform water quality tests and inspections as may be required for the protection of the public health;

- c. To conserve water supply when said supply is deemed insufficient to meet demand due to circumstances beyond the town's control;
 - d. To protect the public interest by the prevention of fraud or abuse;
 - e. To protect the public interest by the proper response to legal processes and the administration of justice;
 - f. To protect the public health and interest in all other unforeseen situations which may occur in the future.
- (2) Reserves the right to discontinue its water service without notice for any of the following:
- a. To make emergency repairs;
 - b. To protect the public health and interest in the event of strike, riot, fire, flood, accident and any and all other natural and man-made dangers and disasters.

Sec. 38-28. - General billing procedures.

- (a) Bills to consumers for water service shall be mailed out on such day of each month as may be determined desirable by the office of the water system manager.
- (b) Bills may be paid in person at the office of the water system manager or by mail by check made payable to the town.
- (c) Failure to receive bills or notices shall not prevent such bills from becoming delinquent, nor relieve the consumer of the responsibility for payment of same. The failure of water users to pay the charges duly imposed and in a timely manner shall permit the office of the water system manager to take any and/or all of the following measures:
 - (1) Nonpayment within ten days from the due date indicated on the bill shall make the account subject to a penalty equal to ten percent of the total unpaid balance.
 - (2) Nonpayment within 20 days from the due date on the bill shall cause the water to be shut off and water service to be discontinued to the delinquent customer.
 - (3) Should the consumer elect to pay the amount delinquent to the public employee who has been designated by the office of the water system manager to turn off said customer's water, then an additional penalty as provided in section 2-1 shall be assessed to said customer's account and added to the next water bill.
 - (4) When water service has been disconnected for the nonpayment of bills, said water service can be restored only after all outstanding charges against said account have been satisfied; and after said consumer has paid a reconnect fee as provided in section 2-1; and after said customer has paid to the office of the water system manager an amount equal to the average of said consumer's water bills over the preceding three months. This additional payment shall be added to the consumer's original security deposit. Both the original and the supplemental security deposits shall be returned to the consumer should he later discontinue water service and at such time have no outstanding bills against his account.
 - (5) Nonpayment for 60 days after the original due date indicated on the water bill will allow the town, through the office of the water system manager, in addition to all other rights and remedies, to terminate any type of contractual agreement or relationship with the customer; and in the event of such a termination, the delinquent customer shall not be entitled to receive, nor the town obliged to supply, any water to said customer until such time as the amount due has been paid in full. The town shall not construe this subsection as authority for withholding water to such a delinquent consumer in the event of fire upon the property or premises of said customer.
 - (6) Should an account remain delinquent after the running of the 60-day period as set out above, the town, through the office of the water system manager, shall then be authorized to apply the security deposit of said offending consumer toward lessening the unpaid balance; and further

may proceed to collect the outstanding debt in the manner provided by law for the collection of debts. Should the customer's security deposit cover the entire unpaid balance and yield a surplus, said surplus shall be refunded to the customer.

- (d) The water system manager may adopt such reasonable rules and regulations as are deemed necessary to effectuate the billing, tap-ons, maintenance, disconnections or any notices thereof. Said rules and regulations shall be in written form and posted conspicuously in the office of the water system manager.
- (e) Any user who requests the town to terminate service during vacations, either seasonal or otherwise, or for any period of time greater than two months shall pay a reconnect fee as provided in section 2-1.

Sec. 38-29. - Water rate schedules.

- (a) The water rate schedules which shall govern the assessment of costs and the calculation of bills for water supplied by the public water system are set forth in subsection (b) of this section.
- (b) The minimum monthly charges for public water for the following shall be as provided in section 2-1:
 - (1) Residential consumers.
 - (2) Commercial and industrial consumers.
- (c) The town shall not provide water free to charge to anyone under any condition and/or circumstances.
- (d) The water rate schedules which shall govern the assessment of costs and the calculation of bills shall be posted in a public place at the office of the water system manager and copies of said schedules shall be provided to consumers at no more than the cost of the duplication of said water rate schedules.
- (e) Any change in the rate schedules shall be by action of the town council, and the users of the public water system shall be duly notified thereof.

Sec. 38-30. - Billing errors and adjustments thereof.

- (a) If the consumer believes his water bill to be in error, said consumer shall present his claim in person, or by mail, to the office of the water system manager. Such a protest should be made before the bill in question becomes past due, since said protest shall not be effective in preventing the discontinuance of water service for nonpayment as set out above.
- (b) The consumer may pay a bill under protest, and said payment shall not prejudice his claim. Should the office of the water system manager be found in error, the amount of said error in favor of the protesting consumer shall be, at the election of the consumer, either refunded or credited toward payment of the next water bill.
- (c) In order to help determine the validity of a protested billing error, the office of the water system manager may take any of the following steps which may seem appropriate:
 - (1) Make a special water meter reading at the request of the consumer.
 - (2) Perform a water meter accuracy test at the request of the consumer upon payment by said consumer of the actual cost of making such a test. Should the water meter be found to over-register more than five percent in favor of the town, then the test fee shall be returned to the consumer.
 - (3) If the water meter, upon inspection, is found to be inoperable, or to be incorrectly registering, or if the seal on said meter has been broken by any person other than the representative of the office of the water system manager, then the consumer shall have a new bill calculated and in said bill shall be charged with an amount equal to the average of his bills for the preceding three months. Should the consumer's water meter remain inoperable for failure of the office of the water system manager to make the required repairs, then the consumer shall continue to be

billed an amount equal to the average of the preceding three months' bills until said meter is repaired.

- (d) In order to maintain the integrity of the billing system, it shall be unlawful for the consumer to break the seal on a water meter or to in any way attempt to affect its manner of recording water usage. Violation of this provision shall make the offending consumer liable for damages for the destruction of public property and shall subject said consumer to possible prosecution for theft or conversion. Conviction under either charge shall allow the town, through the office of the water system manager, to refuse service to said offending consumer and his property and premises until the town has been properly compensated.

Sec. 38-31. - Responsibilities and liabilities assumed by the consumer.

- (a) Heedless waste of water. Consumers of water drawn from the public water system shall be required, at all times, to use said water in a reasonable and prudent manner. In times where the supply of public water is deemed by the office of the water system manager to be comfortably in excess of demand, there shall be no infringement by said office on the consumer's reasonable and prudent use and enjoyment of said water, so long as such use shall not be contrary to law, or contrary to rules and regulations having the force of law. In times where the water supply has been deemed by the office of the water system manager to be insufficient to meet the normal demand for said water, the water system manager may require public water users to limit their use of said water. The degree and manner of said water limitation shall be made public not less than 24 hours before implementation of such limitations. However, should the mayor declare a state of emergency, implementation of water use limitations may begin immediately thereafter said declaration. Failure on the part of any consumer to comply with such water use limitations shall allow the immediate disconnection of said consumer from the public water system, and said disconnection, at the discretion of the office of the water system manager, may be maintained for the duration of the declared water shortage.
- (b) Water meters.
- (1) Water meters which measure the water flow through the various portions of the town, and as public property, shall be protected from damage and abuse by all the rights and remedies available for the protection of other forms of public property.
- (2) Where the water meter has been placed on the premises of a consumer, a suitable place shall be provided by said consumer for said water meter. Said place shall be unobstructed and accessible at all times to the employees of the office of the water system manager.
- (3) Consumers of the public water system shall be required, when necessary, to take whatever measures are reasonable in order to facilitate the inspection and maintenance of said consumer's water meters. Such measures may include, but not be limited to:
- a. The cutting of plant material which obstructs free access to each meter.
 - b. The unlocking of doors and gates which would otherwise prevent access to each meter.
 - c. The penning up of large or dangerous animals which might otherwise endanger the person or the employees of the office of the water system manager.
- (c) If any consumer of the public water system should fail to make his water meter accessible to the employees of the water system manager in accordance with the guidelines stated in this section, the office of the water system manager may then bill the offending consumer an amount equal to the average of said customer's three previous water bills. In such a case, any errors of underbilling or overbilling will be corrected in the next water bill sent out so long as said bill is based on an actual water meter reading.
- (d) If a consumer's water meter is inaccessible for two months in succession, the office of the water system manager may, in addition to continuing to bill said customer according to the guidelines established herein, add to said water bill a penalty charge equal to ten percent of the last billing amount.

- (e) Should a consumer's water meter remain inaccessible for three months in succession, the office of the water system manager shall be authorized to bill for said month by the guidelines stated herein and shall be authorized to terminate any further water service to the offending consumer until the water meter is made properly accessible.
- (f) It shall be unlawful for any person having a metered system tap to the public water system to make or cause to make any other connection for the transmission of said public water in any manner which may result in the subversion of the proper measurement by said meter of the water flowing onto the consumer's property or premises.
- (g) Piping and apparatus.
 - (1) The consumer of the public water system shall furnish and maintain a private cutoff valve on the consumer's side of the water meter.
 - (2) The consumer's piping and apparatus shall be installed and maintained, at the consumer's expense, in a safe and efficient manner and condition, and in accordance with the law and those rules and regulations having the force of law.

Sec. 38-32. - Responsibilities and liabilities assumed by the water supplier.

- (a) *Water supply.* Within the town limits, and within those areas outside said town limits as may be authorized, the town, acting through its office of the water system manager, shall provide water service to requesting customers in accordance with the standards and practices set out in this article.
- (b) *Maintenance and construction.*
 - (1) Duly authorized agents of the office of the water system manager shall have access at all hours to the premises of the consumer for the purposes of installing and removing public property, inspecting and maintaining such property and for any other purpose which may prove necessary for the safe and efficient provision of water service.
 - (2) The town, acting through the office of the water system manager, reserves the right to refuse water service to any customer unless said customer's water lines, piping and apparatus are installed in a safe and reasonable manner, and comply with all applicable requirements of state law, this article and all other applicable ordinances of the town.
 - (3) The town, acting through the office of the water system manager, reserves the right to refuse water service to any consumer unless said consumer's water lines, piping and apparatus are installed in such a manner as to prevent cross connection, backflow or the entry of impurities or contaminants into the public water supply.
 - (4) Extensions of the water lines of the public water system, either distribution lines or system tap lines, shall be made only after the potential consumer has granted or conveyed, or has caused to be granted or conveyed, to the town, a permanent easement or right-of-way across any of said consumer's property which shall be traversed by the requested water distribution lines or taps.

Secs. 38-33—38-52. - Reserved.

ARTICLE III. - IDENTITY THEFT PREVENTION (RED FLAG PROGRAM)

Sec. 38-53. - Short title.

This article shall be known as the "Identity Theft Prevention Program."

Sec. 38-54. - Purpose.

The purpose of this article is to comply with 16 CFR 681.2 in order to detect, prevent and mitigate identity theft by identifying and detecting identity theft red flags and by responding to such red flags in a manner that will prevent identity theft.

Sec. 38-55. - 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. Other than "town" and "personal identifying information," definitions provided in this section are based on the definitions provided in 16 CFR 681.2.

Covered account means:

- (1) An account that a financial institution or creditor offers or maintains, primarily for personal, family, or household purposes, that involves or is designed to permit multiple payments or transactions, such as a credit card account, mortgage loan, automobile loan, margin account, cell phone account, utility account, checking account, or savings accounts; and
- (2) Any other account that the financial institution or creditor offers or maintains for which there is a reasonably foreseeable risk to customers or to the safety and soundness of the operational, compliance, reputation, or litigation risks.

Credit means the right granted by a creditor to a debtor to defer payment of debt or to incur debts and defer its payment or to purchase property or services and defer payment therefor.

Creditor means any person who regularly extends, renews, or continues credit; any person who regularly arranges for the extension, renewal, or continuation of credit; or any assignee of an original creditor who participates in the decision to extend, renew, or continue credit and includes utility companies and telecommunications companies.

Customer means a person that has a covered account with a creditor.

Identity theft means a fraud committed or attempted using identifying information of another person without authority.

Personal identifying information means a person's credit card account information, debit card information, bank account information and drivers' license information and for a natural person includes his social security number, mother's birth name, and date of birth.

Red flag means a pattern, practice, or specific activity that indicates the possible existence of identity theft.

Sec. 38-56. - Findings.

- (a) The town is a creditor pursuant to 16 CFR 681.2 due to its provision or maintenance of covered accounts for which payment is made in arrears.
- (b) Covered accounts offered to customers for the provision of town services include water and other covered accounts.
- (c) The town's previous experience with identity theft related to covered accounts is as follows: attempts have been made but have been caught by the town.
- (d) The processes of opening a new covered account, restoring an existing covered account, and making payments on such account, have been identified as potential processes in which identity theft could occur.
- (e) The town limits access to personal identifying information to those employees responsible for or otherwise involved in opening or restoring covered accounts or accepting payment for use of covered accounts. Information provided to such employees is entered directly into the town's computer system and is not otherwise recorded.
- (f) The town determines that there is a low risk of identity theft occurring in the following ways:
 - (1) Use by an applicant of another person's personal identifying information to establish a new covered account;

- (2) Use of a previous customer's personal identifying information by another person in an effort to have service restored in the previous customer's name;
- (3) Use of another person's credit card, bank account, or other method of payment by a customer to pay such customer's covered account; and
- (4) Use by a customer desiring to restore such customer's covered account of another person's credit card, bank account, or other method of payment.

Sec. 38-57. - Process of establishing a covered account.

- (a) As a precondition to opening a covered account in the town, each applicant shall provide the town with personal identifying information of the customer being a valid government-issued identification card containing a photograph of the customer or, for customers who are not natural persons, a photograph of the customer's agent opening the account. Such applicant shall also provide any information necessary for the department providing the service for which the covered account is created to access the applicant's consumer credit report.
- (b) Each account shall be assigned an account number and may have a personal identification number (PIN) which shall be unique to that account. The town may utilize computer software to randomly generate assigned PINs and to encrypt account numbers and PINs.

Sec. 38-58. - Access to covered account information.

- (a) Access to customer accounts shall be password protected and shall be limited to authorized town personnel.
- (b) Such password shall be changed by town administration on a regular basis, shall be at least eight characters in length and shall contain letters, numbers and symbols.
- (c) Any unauthorized access to or other breach of customer accounts is to be reported immediately to the town council and the password changed immediately.
- (d) Personal identifying information included in customer accounts is considered confidential and any request or demand for such information shall be immediately forwarded to the town council and the town attorney.

Sec. 38-59. - Credit card payments.

- (a) In the event that credit card payments that are made over the internet are processed through a third party service provider, such third party service provider shall certify that it has an adequate identity theft prevention program in place that is applicable to such payments.
- (b) All credit card payments made over the telephone or the town's website shall be entered directly into the customer's account information in the computer database.
- (c) Account statements and receipts for covered accounts may include only the last four digits of the credit or debit card or the bank account used for payment of the covered account.

Sec. 38-60. - Sources and types of red flags.

All employees responsible for or involved in the process of opening a covered account, restoring a covered account or accepting payment for a covered account shall check for red flags as indicators of possible theft and such red flags may include:

- (1) Alerts from consumer reporting agencies, fraud detection agencies or service providers. Examples of alerts include, but are not limited to:
 - a. A fraud or active duty alert that is included with a consumer report;
 - b. A notice of credit freeze in response to a request for a consumer report;
 - c. A notice of address discrepancy provided by a consumer reporting agency;

- d. Indications of a pattern of activity in a consumer report that is inconsistent with the history and usual pattern of activity of an applicant or customer, such as:
 - 1. A recent and significant increase in the volume of inquiries;
 - 2. An unusual number of recently established credit relationships;
 - 3. A material change in the use of credit, especially with respect to recently established credit relationships; or
 - 4. An account that was closed for cause of identified for abuse of account privileges by a financial institution or creditor.
- (2) Suspicious documents. Examples of suspicious documents include:
- a. Documents provided for identification that appear to be altered or forged;
 - b. Identification on which the photograph or physical description is inconsistent with the appearance of the applicant or customer;
 - c. Identification on which the information is inconsistent with information provided by the applicant or customer;
 - d. Identification on which the information is inconsistent with readily accessible information that is on file with the financial institution or creditor, such as a signature card or a recent check; or
 - e. An application that appears to have been altered or forged, or appears to have been destroyed and reassembled.
- (3) Suspicious personal identification, such as suspicious address change. Examples of suspicious identifying information include:
- a. Personal identifying information that is inconsistent with external information sources used by the financial institution or creditor. For example:
 - 1. The address does not match any address in the consumer report; or
 - 2. The social security number (SSN) has not been issued, or is listed on the Social Security Administration's death master file.
 - b. Personal identifying information provided by the customer is not consistent with other personal identifying information provided by the customer, such as a lack of correlation between the SSN range and date of birth.
 - c. Personal identifying information or a phone number or address, is associated with known fraudulent applications or activities as indicated by internal or third party sources used by the financial institution or creditor.
 - d. Other information provided, such as fictitious mailing address, mail drop addresses, jail addresses, invalid phone numbers, pager numbers or answering services, is associated with fraudulent activity.
 - e. The SSN provided is the same as that submitted by other applicants or customers.
 - f. The address or telephone number provided is the same as or similar to the account number or telephone number submitted by an unusually large number of applicants or customers.
 - g. The applicant or customer fails to provide all required personal identifying information that is on file with the financial institution or creditor.
 - h. The applicant or customer cannot provide authenticating information beyond that which generally would be available from a wallet or consumer report.
- (4) Unusual use of or suspicious activity relating to a covered account. Examples of suspicious activity include:

- a. Shortly following the notice of change of address for an account, the town receives a request for the addition of authorized users on the account.
 - b. A new revolving credit account is used in a manner commonly associated with known patterns of fraud patterns. For example: the customer fails to make the first payment or makes an initial payment but no subsequent payments.
 - c. An account is used in a manner that is not consistent with established patterns of activity on the account. There is, for example:
 - 1. Nonpayment when there is no history of late or missed payments;
 - 2. A material change in purchasing or spending patterns.
 - d. An account that has been inactive for a long period of time is used (taking into consideration the type of account, the expected pattern of usage and other relevant factors).
 - e. Mail sent to the customer is returned repeatedly as undeliverable although transactions continue to be conducted in connection with the customer's account.
 - f. The town is notified that the customer is not receiving paper account statements.
 - g. The town is notified of unauthorized charges or transactions in connection with a customer's account.
 - h. The town is notified by a customer, law enforcement or another person that is has opened a fraudulent account for a person engaged in identity theft.
- (5) Notice from customers, law enforcement, victims or other reliable sources regarding possible identity theft or phishing relating to covered accounts.

Sec. 38-61. - Prevention and mitigation of identity theft.

- (a) In the event that any town employee responsible for or involved in restoring an existing covered account or accepting payment for a covered account becomes aware of red flags indicating possible identity theft with respect to existing covered accounts, such employee shall use his discretion to determine whether such red flag or combination of red flags suggest a threat of identity theft. If, in his discretion, such employee determines that identity theft or attempted identity theft is likely or probable, such employee shall immediately report such red flags to the council. If, in his discretion, such employee deems that identity theft is unlikely or that reliable information is available to reconcile red flags, the employee shall convey this information to the council, who may in its discretion determine that no further action is necessary. If the council in its discretion determines that further action is necessary, a town employee shall perform one or more of the following responses, as determined to be appropriate by the council:
 - (1) Contact the customer;
 - (2) Make the following changes to the account if, after contacting the customer, it is apparent that someone other than the customer has accessed the customer's covered account:
 - a. Change any account numbers, passwords, security codes, or other security devices that permit access to an account; or
 - b. Close the account;
 - (3) Cease attempts to collect additional charges from the customer and decline to sell the customer's account to a debt collector in the event that the customer's account has been accessed without authorization and such access has caused additional charges to accrue;
 - (4) Notify a debt collector within one week of the discovery of likely or probable identity theft relating to a customer account that has been sold to such debt collection in the event that a customer's account has been sold to such account;

- (5) Notify law enforcement, in the event that someone other than the customer has accessed the customer's account causing additional charges to accrue or accessing personal identifying information; or
 - (6) Take other appropriate action to prevent or mitigate identity theft.
- (b) In the event that any town employee responsible for or involved in opening a new covered account becomes aware of red flags indicating possible identity theft with respect to an application for a new account, such employee shall use his discretion to determine whether such red flag or combination of red flags suggests that identity theft or attempted identity theft is likely or probable, such employee shall immediately report such red flags to the council. If, in his discretion, such employee deems that identity theft is unlikely or that reliable information is available to reconcile red flags, the employee shall convey this information to the council, who may in its discretion determine that further action is necessary. If the council in its discretion determines that further action is necessary, a town employee shall perform one or more of the following responses, as determined to be appropriate by the council:
- (1) Request additional identifying information from the applicant;
 - (2) Deny the application for the new account;
 - (3) Notify law enforcement of possible identity theft; or
 - (4) Take other appropriate action to prevent or mitigate identity theft.

Sec. 38-62. - Updating the program.

The town council shall annually review and, as deemed necessary by the council, update the identity theft prevention program along with any relevant red flags in order to reflect changes in risks to customers or to the safety and soundness of the town and its covered accounts from identity theft. In so doing, the town council shall consider the following factors and exercise its discretion in amending the program:

- (1) The town's experiences with identity theft;
- (2) Updates in methods of identity theft;
- (3) Updates in customary methods used to detect, prevent, and mitigate identity theft;
- (4) Updates in the types of accounts that the town offers or maintains; and
- (5) Updates in service provider arrangements.

Sec. 38-63. - Program administration.

Town administrative staff is responsible for oversight of the program and for program implementation. The town council is responsible for reviewing reports prepared by staff regarding compliance with red flag requirements and with recommending material changes to the program, as necessary in the opinion of the town council, to address changing identity theft risks and to identify new or discontinued types of covered amounts. Any recommended material changes to the program shall be submitted to the town council for consideration by the council.

- (1) The town administrative staff will report to the town council periodically, on compliance with the red flag requirements. The report will address material matters related to the program and evaluate issues such as:
 - a. The effectiveness of the policies and procedures of the town in addressing the risk of identity theft in connection with the opening of covered accounts and with respect to existing covered accounts;
 - b. Service provider arrangements;
 - c. Significant incidents involving identity theft and management's response; and
 - d. Recommendation for material changes to the program.

- (2) The town administrative staff is responsible for providing training to all employees responsible for or involved in opening a new covered account, restoring an existing covered account or accepting payment for a covered account with respect to the implementation and requirements of the identity theft prevention program. The town administrative staff shall exercise their discretion in determining the amount and substance of training necessary.

Sec. 38-64. - Outside service providers.

In the event that the town engages a service provider to perform an activity in connection with one or more covered accounts, the town administrative staff shall exercise their discretion in reviewing such arrangements in order to ensure, to the best of their ability, that the service provider's activities are conducted in accordance with policies and procedures, agreed upon by contract, that are designed to detect any red flags that may arise in the performance of the service provider's activities and take appropriate steps to prevent or mitigate identity theft.

Secs. 38-65—38-86. - Reserved.

ARTICLE IV. - TREATMENT OF ADDRESS DISCREPANCIES

Sec. 38-87. - Purpose.

Pursuant to 16 CFR 681.1 the purpose of this article is to establish a process by which the town will be able to form a reasonable belief that a consumer report relates to the consumer about whom it has requested a consumer credit report when the town has received a notice of address discrepancy.

Sec. 38-88. - 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:

Notice of address discrepancy means a notice sent to a user by a consumer reporting agency pursuant to 15 USC 1681(c)(h)(1), that informs the user of a substantial difference between the address for the consumer that the user provided to request the consumer report and the address in the agency's file for the consumer.

Sec. 38-89. - Policy.

In the event that the town receives a notice of address discrepancy, the town employee responsible for verifying consumer addresses for the purpose of providing the municipal service or account sought by the consumer shall perform one or more of the following activities, as determined to be appropriate by such employee:

- (1) Compare the information in the consumer report with:
 - a. Information the town obtains and uses to verify a consumer's identity in accordance with the requirements of the customer information program rules implementing 31 USC 5318(1);
 - b. Information the town maintains in its own records, such as application for service, change of address notices, other customer account records or tax records; or
 - c. Information the town obtains from third party sources that are deemed reliable by the relevant town employee; or
- (2) Verify the information in the consumer report with the consumer.

Sec. 38-90. - Furnishing consumer's address to consumer reporting agency.

- (a) In the event that the town reasonably confirms that an address provided by a consumer to the town is accurate, the town is required to provide such address to the consumer reporting agency from

which the town received a notice of address discrepancy with respect to such consumer. The information is required to be provided to the consumer reporting agency when:

- (1) The town is able to form a reasonable belief that the consumer report relates to the consumer about whom the town requested the report;
 - (2) The town establishes a continuing relation with the consumer; and
 - (3) The town regularly and in the ordinary course of business provides information to the consumer reporting agency from which it received the notice of address discrepancy.
- (b) Such information shall be provided to the consumer reporting agency as part of the information regularly provided by the town to such agency for the reporting period in which the town establishes a relationship with the customer.

Sec. 38-91. - Methods of confirming consumer addresses.

The town employee charged with confirming consumer addresses may, in his discretion, confirm the accuracy of an address through one or more of the following methods:

- (1) Verifying the address with the consumer;
- (2) Reviewing the town's records to verify the consumer's address;
- (3) Verifying the address through third party sources; or
- (4) Using other reasonable processes.

Chapter 40 - WATERWAYS

ARTICLE I. - IN GENERAL

Secs. 40-1—40-18. - Reserved.

ARTICLE II. - OUTBOARD MOTORBOATS ON TALLULAH FALLS LAKE¹¹

Footnotes:

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State Law reference— Watercraft generally, O.C.G.A. § 52-7-1 et seq.; local regulation of watercraft, O.C.G.A. § 52-7-21.

Sec. 40-19. - Compliance.

No boat shall be operated upon Tallulah Falls Lake with an outboard motor exceeding the limitations specified in the following sections of this article unless authorized by section 40-23.

(Ord. of 12-4-1981, § 1)

Sec. 40-20. - Maximum horsepower.

No boat shall be operated upon Tallulah Falls Lake with an outboard motor which exceeds ten horsepower.

(Ord. of 12-4-1981, § 2)

Sec. 40-21. - Electric motors.

It shall be lawful for any boat to operate upon Tallulah Falls Lake with an electric motor.

(Ord. of 12-4-1981, § 3)

Sec. 40-22. - Speed limits.

No boat shall operate upon Tallulah Falls Lake in excess of five miles per hour.

(Ord. of 12-4-1981, § 4)

Sec. 40-23. - Exceptions.

By written permission from the town council, an outboard motor of more than ten horsepower may be used when circumstances require it or when construction on or around the lake necessitates it.

(Ord. of 12-4-1981, § 5)

Appendix A - ZONING[11](#)

ZONING ORDINANCE

TOWN OF TALLULAH FALLS, GEORGIA

AN ORDINANCE FOR THE TOWN OF TALLULAH FALLS, GEORGIA, REGULATING THE LOCATION, BULK, AND THE SIZE OF BUILDINGS AND STRUCTURES; THE PERCENTAGE OF LOT WHICH MAY BE OCCUPIED; THE SIZE OF YARDS, COURTS, AND OTHER OPEN SPACE; THE DENSITY AND DISTRIBUTION OF POPULATION; THE USE OF BUILDINGS, STRUCTURES, AND LAND FOR TRADE, INDUSTRY, COMMERCE, RESIDENCE, RECREATION, AGRICULTURE, CONSERVATION, WATER SUPPLY, SANITATION, PROTECTION AGAINST FLOODS, PUBLIC ACTIVITIES, AND OTHER PURPOSES; CREATING DISTRICTS FOR SAID PURPOSES AND ESTABLISHING THE BOUNDARIES THEREOF; DEFINING CERTAIN TERMS USED HEREIN; PROVIDING FOR THE METHOD OF ADMINISTRATION AND AMENDMENT; DEFINING THE POWERS AND DUTIES OF THE PLANNING COMMISSION, BOARD OF APPEALS, BUILDING INSPECTOR, AND GOVERNING AUTHORITY; PROVIDING PENALTIES FOR VIOLATION; AND REPEALING CONFLICTING REGULATIONS.

This document has been approved as to its legal form and sufficiency by the legal counsel of the local government prior to its adoption.

Footnotes:

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Editor's note— Printed herein is the town zoning ordinance, being an ordinance adopted on September 3, 1992. Amendments are indicated by parenthetical history notes following amended sections. The absence of a history note indicates that the provision remains unchanged from the original. Obvious misspellings have been corrected without notation. For stylistic purposes, a uniform system of headings, catchlines and capitalization has been used. Additions made for clarity are indicated by brackets.

ARTICLE I. - PREAMBLE AND ENACTMENT CLAUSE

Pursuant to the authority conferred by the laws and Constitution of the State of Georgia, and for the purpose of promoting the health, safety, morals, convenience, order, prosperity, or welfare of the present

and future inhabitants of the Town of Tallulah Falls and the State of Georgia, including among other purposes the lessening of congestion in the streets; securing safety from fire, panic, and other dangers; promoting health and the general welfare; providing adequate light and air; preventing the overcrowding of land; avoiding undue concentration of population; facilitating the adequate provision of transportation, water, sewerage service, schools, parks, and other public requirements; reducing flood damage to persons and property; promoting such distribution of population and such classification of land uses and distribution of land uses and distribution of land development and utilization as will tend to facilitate and promote desirable living conditions and the sustained stability of neighborhoods, protecting 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 of Tallulah Falls, all in accordance with a Comprehensive Plan for the development of the Town of Tallulah Falls, the Town Council does hereby ordain and enact into law the following Articles and sections:

ARTICLE II. - SHORT TITLE

These regulations shall be known and may be cited as the "Zoning Ordinance of the Town of Tallulah Falls, Georgia."

ARTICLE III. - DEFINITIONS

When used in this ordinance, the following words and phrases shall have the meaning given in this article. Terms not herein defined shall have their customary dictionary definitions where not inconsistent with the context, words used in the singular number include the plural and those used in the plural number include the singular. Words used in the present tense include the future.

The word "person" includes a firm, corporation, co-partnership, association, or institution. The word "lot" includes the word "plot" or "parcel." The word "building" includes the word "structure." The words "used" or "occupied" as applied to any land or building shall be construed to include the words "intended, arranged, or designed to be used or occupied."

Accessory use of building: A subordinate use or building customarily incidental to and located on the same lot with the principal use or building.

Administrative officer: The town clerk of Tallulah Falls, or any authorized representative.

Agriculture: The cultivation or growth of a field or horticultural crop, including dairying, livestock and poultry raising, farm forestry, and other similar enterprises or uses.

Alley: A private or public thoroughfare which affords only a secondary means of access to a building or property and not intended for general traffic circulation.

Alteration: Any change in the supporting members of a building, any modification or change in construction, any addition which increases the area or height, any change in use from that of one district classification to another, or movement of a building from one location to another.

Apartment house: A multi-family dwelling located on a parcel of land under a single ownership, designed for use by three or more housekeeping units, living independently of each other, and doing their own cooking on the premises.

Architectural features, exterior: 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.

Building: Any structure, either temporary or permanent, above or below ground, having a roof or other covering, and designed, built, or used as a shelter or enclosure for persons, animals, or property of any kind, including tents, awnings, or vehicles used for purposes of a building.

Building line: A line formed by the face of a building, and for the purpose of this ordinance, a minimum building line is the same as a setback line.

Building, principal: A building in which is conducted the main use of the property on which the structure is located.

Campground: Land containing two (2) or more campsites which are located, established or maintained for occupancy by people in temporary lodging units such as camp tents, or cabins, for recreation, education or vacation purposes.

Centerline of street: That line surveyed and monumented by the governing body and designated as the center of a public street. If a centerline has not been surveyed, it shall be the line running midway between the outside curbs or ditches of such street.

Certificate of appropriateness: A statement or other formal indication by the planning commission that a proposed demolition, change in the exterior architectural appearance of construction, reconstruction, alteration or restoration, construction or change in, or establishment of, a use that has been approved by the commission.

Certificate of occupancy: A legal statement or document issued by the building official indicating that the building and use or reuse of a particular building or land is in conformity with all applicable codes and regulations, and that such building or land may be occupied for the purpose stated therein.

Compatibility: The characteristics of different uses or activities that permit such uses or activities to be located near each other in harmony and without conflict. Some elements affecting compatibility include: intensity of occupancy as measured by dwelling units per acre or gross square feet per acre; pedestrian or vehicular traffic generated; volume of goods handled; and such environmental affects as noise, vibration, odor, glare, air pollution, water pollution or radiation.

Comprehensive plan: Those coordinated plans or portions thereof which have been prepared by or for the governing body for the physical development of the jurisdiction; or any plans that designate plans or programs to encourage the most appropriate use of the land in the interest of public health, safety and welfare.

Conditional zoning: The granting or adoption of zoning for property subject to compliance with restrictions as to use, size, density or actions stipulated by the governing body to mitigate adverse impacts that are anticipated without imposition of such conditions.

Condominium: 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.

Curb cut: A provision for vehicular ingress and/or egress between property and an abutting public street.

Dwelling: A building designed or used as living quarters for one or more families.

Dwelling unit: A dwelling or portion thereof providing facilities for one or more persons living as a single housekeeping unit.

Family: An individual, or two (2) or more persons related by blood, marriage, adoption or guardianship, or a group of not more than four (4) unrelated persons, occupying a single dwelling unit and using the same cooking facilities; provided, however, that domestic servants employed on the premises may be housed on the premises without being counted as a separate family or families.

Flood hazard area: Any area within the Town of Tallulah Falls which is subject to periodic flooding due to natural or man-made causes and which includes all lands with a one percent chance of flooding as determined by the Federal Emergency Management Agency.

Height, building: The vertical distance measured from the grade to the highest point of the coping of a flat roof; to the decklines of a mansard roof; or to the mean height level between the eaves and ridge of a gable, hip or gambrel roof. Grade is defined as the average elevation of the ground on all sides of a building.

Home occupation: An occupation for gain or support conducted only by members of a family residing on the premises and conducted entirely within the dwelling.

Impervious surface coverage: That area of land within a subject lot, occupied by buildings, structures, or improvements which consist of materials that are not porous or which do not permit water to soak through to the ground, including the roofs of buildings and paved driveways.

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.

Loading and unloading space: A space, typically with dimensions of twelve (12) feet by sixty (60) feet, logically and conveniently located for pickups and/or deliveries or for loading and/or unloading, scaled to delivery vehicles to be used, and accessible to such vehicles.

Lot: A parcel of contiguous land in the same ownership which is not divided by any public highway or alley, including any part thereof subject to any easement for any purpose other than a public highway or alley, but excluding any part thereof severed from another lot where severance creates any non-conforming use or structure.

Lot area: The total horizontal area within the lot lines of a lot, exclusive of public street right-of-ways.

Lot, corner: A lot abutting upon two or more streets at their intersection.

Lot coverage: The part or percent of a lot occupied by buildings and structures, including accessory buildings and structures, but not including unenclosed parking areas.

Lot, double frontage: Any lot, other than a corner lot, which has frontage on two (2) streets that do not intersect at a point abutting the property.

Lot of record: A lot which is part of a subdivision, a plat of which has been recorded in the records of the county superior court; or a parcel of land, the deed of which was recorded in the same office prior to the date of adoption of these regulations.

Lot width: The horizontal distance between side lot lines measured at the minimum required front yard (regulatory front building setback) line.

Major artery: Any route designated as an interstate route or connector, as a state or federal route, or any four-lane street or road, or any avenue, street, or road designated as a major artery by the Tallulah Falls Planning Commission and shown as such on the official zoning map.

Manufactured home: A structure, built to conform to national standards embodied in the National Manufactured Housing Construction and Safety Standards Act of 1974 as amended, 42 USC 5401 et seq. administered by the United States Department of Housing and Urban Development, transportable in one or more sections, which, in the traveling mode, is eight (8) body feet or more in width or forty (40) body feet or more in length, or when erected on site, is three hundred twenty (320) or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning and electrical systems contained therein.

Manufactured home park: A parcel of land under single ownership which has been planned or improved for the placement of two or more manufactured homes for residential use, including land, buildings and facilities used by the occupants of manufactured homes on such property.

Material change in appearance: A change that will affect either the exterior architectural or environmental features of property or any building, structure, site, object, landscape feature or work of art. This includes material changes in colors but not repainting to the same or similar color. Normal maintenance, such as reroofing, residing, etc., with a like or similar material is not included in this definition.

Mobile home: A structure, transportable in one or more sections, which, in the traveling mode, is eight (8) body feet or more in width or forty (40) body feet or more in length or, when erected on site, is three hundred twenty (320) or more square feet and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities

and includes the plumbing, heating air conditioning, and electrical systems contained therein and manufactured prior to June 15, 1976.

Mobile home park: A parcel of land under single ownership which has been planned or improved for the placement of two or more mobile homes for residential use, including land, buildings, and facilities used by the occupants of mobile homes on such property.

Modular home: A factory fabricated transportable building consisting of units designed to be incorporated at a building site on a permanent foundation into a permanent structure to be used for residential purposes and which bears a seal of compliance with regulations of either the Southern Building Code Congress International or the Georgia Industrialized Building Act.

Multi-family dwelling: A structure designed or used for residential occupancy by more than two housekeeping units, with or without common or separate kitchen or dining facilities, including apartment houses, apartment hotels, rooming houses, boarding houses, fraternities, sororities, dormitories, row houses, townhouses, and similar housing types, but not including motels, hotels, hospitals, nursing homes, or public institutions such as prisons and mental institutions.

Natural feature: Includes, but is not limited to, boulders, rock outcroppings, streams, topsoil, etc., being in its native state.

Natural protective barrier: Any natural formation, such as a land swell, bench, berm, tree line, ridge, saddle dike or sand bar, which effectively controls or limits flooding or assists in confining a specific flood-prone area.

Non-conforming lot: A lot, the area, width, or other characteristic of which fails to meet requirements of the zoning district in which it is located and which was of record prior to the enactment of the zoning ordinance. Any lot which is subsequently annexed into the Tallulah Falls Town limits which does not meet the requirements of the particular zoning district shall also be considered a non-conforming lot.

Non-conforming structure: Any building or structure which does not conform to the regulations governing the bulk, location, height or size of buildings or structures permitted in the district and which existed on the date of adoption of these regulations.

Non-conforming use: Any building or land lawfully occupied by a use at the date of adoption of this ordinance which does not conform with the use regulations of the district in which it is located.

Nursing home: Any building or dwelling where persons are housed or lodged and furnished with meals and nursing care for hire, but not including hospitals and mental health institutions.

Official zoning map: The map, which accompanies the zoning ordinance text, that delineates the geographic location of the boundaries of zoning districts established in this ordinance in relation to natural features, man-made features and/or property uses.

Outdoor storage: The keeping in an unenclosed area of any goods, junk, material, merchandise, or commercial vehicles in the same place for more than twenty-four hours.

Parking lot: Any public or private open area used for the express purpose of temporary storage of private motor vehicles. A parking lot may be the principal use on a given lot or an accessory use to the principal use on a given lot.

Parking space: An area having typical dimensions of not less than nine (9) feet by twenty (20) feet and three hundred (300) square feet including maneuvering space within a parking lot, to be used exclusively as a temporary storage space for a motor vehicle.

Permitted use: A use by right which is specifically authorized in a particular zoning district.

Planned unit development (PUD): A form of development within which clustered housing, other unusual arrangements of buildings, or a mixture of uses may be permitted by special approval in a district in which such development would not ordinarily be allowed. A site plan must be submitted, and the approved site plan becomes part of the restrictions.

Planning commission: The Town of Tallulah Falls Planning Commission as established in this ordinance, or by previous ordinance.

Premises: A lot as otherwise used in this ordinance.

Public highways: Roads in the state or county highway system.

Public use: Any building, structure or use owned and/or operated by the Federal Government, State of Georgia, Habersham County, Rabun County or other county, the City [Town] of Tallulah Falls or other municipality, or any authority, agency, board or commission of the above governments, which is necessary to serve a public purpose, such as but not limited to the following: government administrative buildings, police and fire stations, public health facilities and hospitals, public works camps, parks and community centers, public roads and streets, airports, water and sanitary sewerage storage, intake, collection and treatment and pumping facilities, public housing facilities, jails and correctional centers.

Recreational vehicle: A vehicular type portable structure which can be towed, hauled or driven and is primarily designed as temporary living accommodations for recreational, camping and travel uses.

Recreational vehicle (RV) park: Any lot of land upon which two or more recreational vehicle sites are located, established or maintained for occupancy on a temporary basis by recreational vehicles of the general public as temporary living quarters by campers, vacationers or travelers.

Rehabilitation: The process of returning a property to a state of utility, through repair or alteration, which makes possible an efficient contemporary use while preserving those portions of the property which are significant to its historic, architectural and cultural values.

Remove or removal: Includes the cutting of trees and the injury and/or destruction of any form of vegetation, geological formation or ecological sensitive area, by whatever method, on any lands subject to this ordinance.

Rezoning: An amendment to or a change in the official zoning map.

Right-of-way: That area, distinguished from an easement, which is owned in fee-simple title by the governing body or other government, for the present or future use of roads, streets, and highways, together with its drainage facilities and other supporting uses and structures.

Screening: A method of shielding, obscuring or buffering one use or building from another use or building by fencing, walls, berms, densely planted vegetation, natural vegetation or other means; a visual and acoustical barrier which is of such nature and density that provides year-round maximum opacity from the ground to a height of at least six (6) feet or that screens structures and activities from view from the normal level of a first story window on an abutting lot.

Semi-public use: Any building, structure or use owned and/or operated by private utilities or private companies for a public purpose, or which is reasonably necessary for the furnishing of adequate service by such utilities, such as but not limited to the following: underground or overhead gas, electrical, steam or water distribution or transmission lines or systems, electric power substations, wires, towers, cables, and poles.

Setback: The minimum horizontal distance between the property boundary lines of a lot and the front, rear, or side lines of a building located on that lot.

Sign: Any device for visual communication that is used for the purpose of bringing the subject thereof to the attention of the public, but not including the flag of any government or government agency, or of any civic, charitable, religious, patriotic, fraternal, educational, or similar organization; standard house numbers, lettering on mail boxes, or similar identification not exceeding two (2) square feet in area.

Sign, attached: Attached signs include wall, projecting and marquee signs as defined below:

- (a) Wall sign: A sign attached to or painted on the exterior wall of a building with the no part of the sign projecting more than twelve (12) inches from the building wall to which it is affixed.
- (b) Projecting sign: A sign affixed to the exterior wall of a building, any part of which extends more than twelve (12) inches beyond the building wall.
- (c) Marquee sign: A projecting sign attached to or hung from a marquee and said marquee shall be known to mean a canopy or covered structure projecting from and supported by a building,

when such canopy or covered structure extends beyond the building wall, building line, or property line of the premises on which it is located.

Sign area: The entire area within a circle, triangle, or parallelogram enclosing the extreme limits of writing, representation, emblem, or any figure of similar character, together with any frame or other material or color forming an integral part of the display or used to differentiate the sign from the background against which it is placed; excluding the necessary supports or uprights on which such sign is placed. Where a sign consists solely of lettering or other sign elements printed or mounted on a wall of a building without any distinguishing border, panel, or background; any blank rectangular area which consists of ten (10) percent or more of the area of the sign as otherwise computed shall be disregarded. All of the lettering and other sign elements printed or mounted upon a wall of a building without any distinguishing border, panel, or background and pertaining to the same enterprise shall be treated as a single sign for purposes of area computation. Where a sign has two or more faces, the area of all faces shall be included in determining the area of the sign, except that where two such faces are placed back to back and are at no point more than two (2) feet from one another, the area of the sign shall be taken as the area of one face if the two faces are of equal area, or as the area of the larger face if the two faces are of unequal area.

Sign, on-premises advertising: A sign which advertises only goods, services, facilities, events, or attractions available on the premises where located, or identifies the owner or occupant or directs traffic on the premises.

Site plan: A graphic illustration, two-dimensional, prepared to scale, showing accurately and with complete dimensioning, the boundaries of a lot or tract and the location of all buildings, structures, uses and principal site development features proposed for a specific lot or tract of land.

Street: A public or private thoroughfare which is open to the general public and which affords the principal means of access to abutting property.

Street, public: A dedicated and accepted public right-of-way which affords the principal means of access to abutting properties.

Stripping: Any activity which significantly disturbs vegetated or otherwise stabilized soil surfaces, including clearing and grubbing operations.

Structural-bearing capacity: The capacity of any given soil or fill material to support a foundation for any given structure without sinking or sliding.

Structure: Anything constructed or erected, the use of which requires more or less permanent location on the ground, or which is attached to something having more or less permanent location on the ground, not including utility poles.

Subdivision: The division of a parcel or tract of land into two (2) or more lots for the purposes of creation of lots for development, the rearrangement of existing lot lines, or for the purpose of transfer of ownership.

Townhouse: One (1) of a group of three (3) or more attached dwelling units under fee simple ownership.

Travel trailer: A portable dwelling or lodging unit, distinguished from a mobile home, designed for short-term travel, recreational or vacation use, including pickup campers and motor homes.

Tree: A wood perennial plant having a single main axis or stem (trunk), exceeding ten (10) feet in height or a flowering ornamental tree having a caliper of two (2) or more inches measured at four and one-half (4.5) feet above the ground.

Undergrowth: Shrubs, bushes, small trees, etc., growing beneath large trees in a wood.

Use: Any purpose for which a building or structure or a tract of land may be designed, arranged, intended, maintained, or occupied; or any activity, occupation, business, or operation carried on, or intended to be carried on, in a building or structure or on a tract of land.

Variance: A minimal relaxation or modification of the strict terms of the height, area, placement, setback, yard, buffer, landscape strip, parking and loading regulations, and sign regulations as applied to specific property when, because of particular physical surroundings, shape, or topographical condition of the property, compliance would result in a particular hardship upon the owner, as distinguished from a mere inconvenience or a desire to make a profit.

Wetland: An area that is inundated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances does support, a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as hydrophytic vegetation.

Yard: A space on the same lot with a principal building, which is open, unoccupied, and unobstructed by buildings or structures from ground to sky except where encroachments and accessory buildings are expressly permitted.

Yard, front: An open, unoccupied space on the same lot with a principal building, extending the full width of the lot and situated between the street right-of-way and the front line of the building projected to the side lines of the lot. In such cases as the street right-of-way has not been established or cannot be determined, said front yard requirement shall be measured from a point ten (10) feet beyond the construction limits of the road (edge of pavement or curb) or edge of drainage ditch, whichever is greater.

Yard maintenance: The upkeep and preparation of grounds around a residence or business establishment to include the sowing and cutting of lawns, pruning of trees and shrubs, planting and upkeep of flower and vegetable gardens, and the removal of leaves and other dead organic debris.

Yard, rear: An open, unoccupied space on the same lot with a principal building, extending the full width of the lot and situated between the rear line of the lot and the rear line of the building projected to the side lines of the lot.

Yard, side: An open, unoccupied space on the same lot with the main building, situated between the building and the side line of the lot and extending from the rear line of the front yard to the front line of the rear yard.

ARTICLE IV. - ESTABLISHMENT OF DISTRICTS AND OFFICIAL ZONING MAP

Sec. 401. - Use districts.

For the purpose of this ordinance, the Town of Tallulah Falls is hereby divided into use districts as set out below:

Single-Family Residential District (R-I)

Multiple-Family Residential District (R-II)

Planned Unit Development District (PUD)

Business District (BD)

Highway Business District (HB)

Agricultural District (A)

Sensitive Land District (SL)

Flood Hazard Area District (FH)

Sec. 402. - District boundaries.

The location and boundaries of the above-listed districts are hereby established as shown on a map entitled official zoning map of the Town of Tallulah Falls, Georgia. Said map, together with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of this ordinance.

The official zoning map shall be identified by the signature of the mayor, attested by the town clerk, and bear the seal of the town or that of a notary public under the following words: "This is to certify that

this is the official zoning map referred to in article IV of the zoning ordinance of the Town of Tallulah Falls, Georgia," together with the date of the adoption of the ordinance.

If in accordance with the provisions of this ordinance and the laws and Constitution of the State of Georgia, changes are made in district boundaries or other matters portrayed on the official zoning map, such changes shall be entered on the official zoning map promptly after the amendment has been approved by the town council, with an entry on the official zoning map as follows: "On (date), by official action of the town council, the following change (or changes) were made in the official zoning map: (brief description of change)," which entry shall be signed by the mayor and attested by the town clerk. No amendment to this ordinance which involves matter portrayed on the official zoning map shall become effective until after such change and entry has been made on said map.

No changes of any nature shall be made in the official zoning map or matter shown thereon except in conformity with the procedures set forth in this ordinance. Any unauthorized change of whatever kind by any person or persons shall be considered a violation of this ordinance.

Regardless of the existence of purported copies of the official zoning map which may from time to time be made or published, the official zoning map which shall be located in the office of the mayor, Town of Tallulah Falls, shall be the final authority as to the current zoning status of land and water areas, buildings, and other structures in the town.

Sec. 403. - Official zoning map.

The official zoning map of the Town of Tallulah Falls, Georgia, is hereby designated as section 403 of this ordinance.

Sec. 404. - Replacement of official zoning map.

In the event that the official zoning map becomes damaged, destroyed, lost, or difficult to interpret because of the nature or number of changes and additions, the town council may adopt a new official zoning map which shall supersede the prior official zoning map. The new official zoning map may correct drafting or other errors or omissions in the prior official zoning map, but no such correction shall have the effect of amending the original official zoning map or any subsequent amendment thereof. The new official zoning map shall be identified by the signature of the mayor, attested by the town clerk, and bear the seal of the city [town] or a notary public under the following words: "This is to certify that this official zoning map supersedes and replaces the official zoning map adopted (date of adoption of map being replaced) as section 403 of the zoning ordinance of the Town of Tallulah Falls, Georgia."

Unless the prior official zoning map has been lost, or has been totally destroyed, the prior map or any significant parts thereof remaining, shall be preserved, together with all available records pertaining to its adoption or amendment.

Sec. 405. - Interpretation of district boundaries.

Where uncertainty exists with respect to the boundaries of any of the districts shown on the official zoning map, the following rules shall apply:

405.1. Where district boundaries are indicated as approximately following the center lines of streets or highways, street lines or railroad right-of-way lines or such lines extended, such center lines, street lines, or railroad right-of-way lines shall be construed to be such boundaries.

405.2. Where district boundaries are indicated as approximately following the corporate limit line of the town, such corporate limit line shall be construed to be such boundaries.

405.3. Where district boundaries are indicated as approximately following property lines or such lines extended, such property lines or such lines extended shall be construed to be such boundaries.

405.4. Where district boundaries are indicated as approximately following the center line of stream beds or river beds such center lines or such lines extended shall be construed to be such boundaries.

405.5. Where district boundaries are indicated as approximately parallel to the center lines of streets, highways, or railroads, or rights-of-way of same, such district boundaries shall be construed as being parallel thereto and at such distance therefrom as indicated on the zoning map. If no distance is given, such dimension shall be determined by the use of the scale shown on said zoning map.

Sec. 406. - District boundary line divides a lot of single ownership.

Where a district boundary line as appearing on the zoning map divides a lot in single ownership at the time of the enactment of these regulations, the requirements for the district in which the greater portion of the lot lies shall be extended to the balance of the lot, provided that such extension shall not include any part of such lot more than 35 feet beyond the district boundary line and provided further that this provision shall not apply to a double frontage lot. In the case of a double frontage lot, the restrictions of the district applying to the adjoining lots which front on the same street as the lot frontage in question shall apply.

ARTICLE V. - GENERAL PROVISIONS

Sec. 501. - Zoning affects every building and use.

No building or land shall hereafter be used or occupied and no building or part thereof shall be erected, moved or altered except in conformity with the regulations herein specified for the district in which it is located, and without first obtaining a building or occupancy permit, except as hereinafter provided. In the enforcement of the provisions of this ordinance the administrative officer may withhold building or occupancy permits until all provisions of this ordinance are complied with or his decision is rescinded by the board of zoning appeals.

Sec. 502. - Continuance of a non-conforming use.

Any structure or use of land existing at the time of the enactment or subsequent amendment of this ordinance not in conformity with its use regulations and provisions, may be continued with the following limitations. It shall not be:

502.1. Changed to another non-conforming use.

502.2. Extended except that the structure or use in its entirety be in conformance with this ordinance.

502.3. Re-established after discontinuance for twelve (12) months.

502.4. Rebuilt, altered or repaired after damage exceeding fifty (50) percent of the fair sales value of the building immediately prior to damage.

Sec. 503. - Only one principal building on any lot.

Only one principal building and its customary accessory buildings may hereafter be erected on any lot, except for multi-family buildings, commercial and industrial buildings.

Sec. 504. - Reduction of lot area prohibited.

No lot shall be reduced in size so that lot width, yard requirements, lot area per dwelling unit, or other requirements of this ordinance are not maintained.

Sec. 505. - Street access.

No building shall be erected on a lot which does not abut or have access to a publicly dedicated or maintained street.

Sec. 506. - Off-street automobile parking and storage.

Off-street automobile parking or storage space shall be provided on every lot for uses and structures hereafter established in all districts, except in cases where no parking space can be reasonably provided on the same lot, such space shall be provided on any lot, a substantial portion of which is within four hundred (400) feet of the use it serves. The required parking space for any number of separate uses may be combined on one lot, but the required space assigned to one use may not be assigned to another use at the same time; except that one-half (½) of the parking space required for churches, theaters, assembly halls, or similar uses where peak attendance will be at night or on Sundays, may be used to augment parking for adjacent day-use activities. Maneuvering space shall be provided at all residential and commercial establishments to prevent any vehicle from backing into the street. Such space shall be provided with vehicular access to a street or alley; such use shall not thereafter be encroached upon or altered; and shall be equal in number to at least the minimum requirements for the specific use set forth below. When application of said provision results in a fractional space requirement, it shall be construed to mean one (1) additional space.

<i>Use Classification</i>	<i>Parking Space Requirement</i>
Automobile sales & repair	One (1) space for each two (2) employees at maximum employment on a single shift, plus two (2) spaces for each 300 square feet of repair or maintenance space.
Bank or financial institution	One (1) space for each 200 square feet of gross floor area.
Beauty shop	One (1) space for each dryer, plus one (1) space for each employee.
Bowling alley	Two (2) spaces for each alley, plus one (1) additional space for each employee.
Church	One (1) space for every four (4) seats.
Convenience retail store	One (1) space for each 200 square feet of gross floor area.
Day care center	One (1) space for each eight children, plus one space per employee.
Elementary school and junior high school, both public and private	One (1) space for each classroom and administrative office.

Filling station	Two (2) spaces for each gas pump plus three (3) spaces for each grease rack or similar facility.
Furniture or appliance store	One (1) space per 600 square feet of gross floor area.
Hospital	One (1) space for every two (2) patient beds plus one (1) space for each staff or visiting doctor, plus one (1) space for every three (3) employees, including nurses.
Mortuary or funeral home	One (1) space for every four (4) seats in the assembly room or chapel.
Motel, tourist home, or hotel	One (1) space for each accommodation, plus one (1) additional space for every two (2) employees.
Office, professional, business or public	One (1) space for every two hundred (200) square feet of total floor area, plus one (1) space for each two (2) employees.
Places of public assembly including private clubs, lodges, and fraternal buildings not providing overnight accommodations, auditoriums, dance halls, pool rooms, theaters, stadiums, gymnasiums, amusement parks, community centers, libraries, museums, and all similar places of public assembly	One (1) space for every one hundred (100) square feet provided for patrol use or ground area used for amusement or assembly, but not containing fixed seats. One (1) parking space for each four (4) seats shall be provided for places of assembly containing fixed seats.
Rooming and boardinghouse	One (1) space for each guest room, plus one (1) additional space for the owner, if resident on the premises.
Residential dwelling	Two (2) spaces for each dwelling unit, except that no more than one (1) space per dwelling unit shall be required in multi-family public housing units intended for occupancy by the elderly.
Restaurant	One (1) space for every four (4) seats plus one (1) space for every two (2) employees.

Retail business	One (1) space for every two hundred (200) square feet of gross floor area.
Sanitariums, rest and convalescent homes, homes for the aged, and similar institutions	One (1) space for every six (6) patient beds, plus one (1) space for each staff or visiting doctor, plus one (1) space for every two (2) employees.
Senior high school, both public and private	One (1) space for every ten (10) pupils for which the space was designed, plus one (1) space for each classroom and administrative office.
Wholesaling, warehousing, and industrial uses	One (1) space for every two (2) employees at maximum employment on a single shift.

Sec. 507. - Off-street loading and unloading spaces.

Every building or structure used for business, trade, or industry hereafter erected, shall provide space as indicated herein for the loading and unloading of vehicles off the street or public alley. Such space shall have access to an alley or, if there is no alley, to a street. For the purpose of this section, off-street loading spaces shall have minimum dimensions of twelve (12) feet by sixty (60) feet and an overhead clearance of fourteen (14) feet above the alley or street grade.

- 507.1. Retail business, except home occupations: The number of spaces required to provide off-street loading adequate for the type of business involved. All plans must be approved by the administrative officer.
- 507.2. Wholesale and industry: The number of spaces required to provide off-street loading adequate for type of activity involved subject to approval by the administrative officer.
- 507.3. Terminal facilities for trucks, buses, or railroads: One (1) space for each bus or truck to be stored, loaded, or unloaded at the terminal at any one time. Plans must be approved by the administrative officer.

Sec. 508. - Visibility at street intersections.

On a corner lot in any zoning district, no planting, structure, fence, wall, or other obstruction to vision more than three (3) feet in height from the street level shall be placed so that it obscures the vision of either drivers or pedestrians approaching the intersection.

At the intersection of any private drive or entrance or exit for a common parking area with a public street or alley, no fence, wall, hedge, structure, or other impediment to visibility shall be placed so that it obstructs the vision of drivers or pedestrians entering a public traffic way.

Sec. 509. - Permanent occupancy of recreational vehicles prohibited.

It shall be unlawful in any zoning district to locate a recreational vehicle or travel trailer for the purpose of occupancy for more than thirty (30) days annually.

Sec. 510. - Every use must be upon a lot.

No building or structure shall be erected or use established unless upon a lot of record as defined by these regulations except as otherwise provided herein.

Sec. 511. - Use prohibited when not specified.

Unless otherwise stated, any use not specifically permitted in a use district as provided in these regulations shall be prohibited in that district.

Sec. 512. - Reference to soil erosion and control ordinance.

All development, as applicable, shall comply with the soil erosion and sediment control ordinance of the Town of Tallulah Falls, Georgia adopted November 2, 1989, or as subsequently may be amended from time to time.

Sec. 513. - Reference to water conservation ordinance.

All development, as applicable, shall comply with the water conservation ordinance of the Town of Tallulah Falls, Georgia adopted by the Town of Tallulah Falls as may subsequently be amended from time to time.

Sec. 514. - Reference to subdivision regulations and campground standards.

All subdivisions and campgrounds, as applicable, shall comply with the subdivision regulations and campground standards for Tallulah Falls, Georgia adopted by the Town of Tallulah Falls as may subsequently be amended from time to time.

ARTICLE VI. - REGULATION OF SIGNS

The provisions of this article shall apply to all signs located within the Town of Tallulah Falls on and after the effective date of this ordinance.

Sec. 601. - Permitted signs.

The following signs shall be permitted provided that they meet all other requirements of this ordinance:

601.1 *Incidental use signs.*

1. Standard highway signs, street markers, or railroad crossing signs or signals, public use and semi-public use signs, authorized by the Town of Tallulah Falls, and the Georgia Department of Transportation in the case of state routes, subject to all other requirements of this article. No other signs shall be permitted within the right-of-way of any street, road, or railroad.
2. Directional or information signs of a public or quasi-public nature which by tradition and precedent are identified with promoting the general welfare of the Town of Tallulah Falls and which do not exceed fifteen (15) square feet in area, including, but not limited to, the following: The name and location of a public building, youth organization, church, or meeting place of an official or civic body.
3. Signs of a temporary nature publicizing special events, festivals, or other community activities. All temporary signs shall be removed within two (2) days following the conclusion of the event or activity for which they were posted.

601.2 *Accessory Use Signs.*

1. A non-illuminated sign, either freestanding or attached, not exceeding four (4) square feet in area and pertaining only to the rent, lease, or sale of the premises upon which it is displayed.

2. A business identification sign, either free standing or attached, not exceeding eight (8) square feet in area, on which the name and nature of a business operated on the premises as an accessory use are shown.

601.3. *Principal Use Signs.*

1. A business identification sign, either freestanding or attached, not exceeding fifty (50) square feet in area, on which the name and nature of the business operated on the premises as the principal use are shown.
2. Attached signs within fifty (50) feet of the front lot line of the premises with a total sign area not exceeding five (5) percent of the area of the building wall to which the sign or signs are attached. When a sign is located more than fifty (50) feet from a front lot line of the premises, the percentage of total sign area in relation to the area of the wall to which the sign or signs are attached shall be determined from the following schedule:

<i>Ratio Between Setback and Sign Area</i>	
<i>Setback in Feet</i>	<i>Percent of Total Sign Area</i>
50—100	7.5
100—150	10.0
150—200	15.0
200 or more	20.0

3. Marquee or projecting signs which overhang a sidewalk, driveway, or other passageway used by either pedestrians or automotive vehicles and those which project more than twelve (12) inches over publicly-owned property shall be permitted only upon approval of the planning commission and the town council. Such signs must meet the same sign area-wall ratio of other types of attached signs.

Sec. 602. - Conditional use signs.

Billboards and principal use signs exceeding the dimensions set out in section 601.3 may be allowed under certain circumstances after review by the planning commission and approval of the town council, as a conditional use.

Sec. 603. - Sign restrictions.

For reasons of safety, the following restrictions shall be observed in the construction, erection and maintenance of signs:

- 603.1. No flashing, intermittent or rotating red, green, or amber illumination shall be used on any sign or structure located in the same line of vision as a traffic control signal. No illumination simulating traffic control devices or emergency vehicles shall be used. No portable illuminated signs shall be permitted except as provided under section 601.1.3.

- 603.2. Any illuminated sign or structure shall be placed so that the rays and illumination therefrom shall not be cast upon neighboring dwellings. All advertising signs or structures having flashing or intermittent lights and which face directly toward neighboring dwellings shall be located at least three hundred (300) feet from such dwellings.
- 603.3. No sign shall be placed where it will interfere with vision clearance along any highway, street or road or obstruct the vision of either drivers or pedestrians at intersections of roads, streets, highways, alleys, or railroad crossings.
- 603.4. No sign shall be erected, constructed or maintained so as to obstruct any fire escape or any window or door or opening used as an entrance or exit of a building or a means of ingress or egress for fire-fighting purposes. No sign shall be attached in any form, shape, or manner to a fire escape or be so placed as to interfere with any opening required for legal ventilation.
- 603.5. No sign shall be painted on or affixed to any natural feature such as trees and rocks.
- 603.6. No political signs shall be erected or placed on any property except private authorized property.

Sec. 604. - Maintenance of signs.

All signs, together with any supports, guy wires, braces, and anchors shall be kept in good repair, be visually harmonious with the surrounding area from all visible sides, and in a safe state of preservation. Should any sign become insecure or in danger of falling or otherwise unsafe in the opinion of the administrative officer, the owner thereof, or the person or firm maintaining the sign, shall upon written notice from the administrative officer, forthwith in the case of immediate danger and in any case within ten (10) days, secure the sign in a manner to be approved by the administrative officer, in conformity with the provisions of the building code of the Town of Tallulah Falls. If such order is not complied with in ten (10) days, the sign shall be removed under instruction of the appropriate official at the expense of the owner or lessee thereof.

Sec. 605. - Unlawful signs.

In case any sign shall be installed, erected or constructed in violation of any of the terms of this ordinance or the Town of Tallulah Falls building code, the administrative officer shall notify by certified mail or written notice served personally, the owner or lessee thereof to alter such sign so as to comply with this ordinance and the building code and to secure the necessary permit, make required alterations, or remove the sign. If such order is not complied with in ten (10) days, the sign shall be removed under instruction of the appropriate official at the expense of the owner or lessee thereof.

Sec. 606. - Non-conforming signs.

The following provisions shall apply to all existing signs which are not in conformance with this ordinance:

- 606.1. Any existing sign, the maintenance of which is made unlawful by this ordinance, may continue to be maintained exactly as the sign existed at the time when the maintenance thereof became unlawful under the provisions of this ordinance, provided the sign does not constitute a safety hazard.
- 606.2. No non-conforming sign shall:
1. Be changed to another non-conforming sign;
 2. Have any changes made in the words or symbols used or the message displayed on the sign unless the sign is an on-premises advertising sign, bulletin board, or substantially similar type of sign, specifically designed for periodic change of message;
 3. Be re-established after the activity, business, or usage to which it relates has been discontinued for thirty (30) days or longer; or

4. Be re-established after damage or destruction if the estimated expense of reconstruction exceeds fifty (50%) percent of the reproduction cost.

606.3. The zoning board of appeals may permit variances from subsection 607.2. or variances permitting the erection or maintenance of a non-conforming sign only upon the grounds established by law for the granting of zoning variances or upon a finding that the grant of a variance will reduce the degree of non-conformance of an existing sign or will result in the removal of one or more lawfully non-conforming signs and replacement by a sign or signs more in keeping with the spirit, purpose, intent, and provisions of this ordinance.

Sec. 607. - Permits, Inspections, and fees.

607.1. No permit shall be required for incidental use signs set out in section 601.1.1 and 601.1.3 or accessory use signs described in section 601.2.1, provided they meet the requirements of this ordinance and provisions of the Town of Tallulah Falls building code. All other signs shall be erected only after a permit has been issued by the administrative officer on forms provided by the office.

607.2. Inspection of all signs requiring a permit shall be made as follows:

1. All signs shall be constructed, installed, and maintained in compliance with the provisions of the Town of Tallulah Falls building codes.
2. All marquee or projecting signs set forth in section 601.3.3 shall be erected under the supervision of the administrative officer.
3. Other attached signs shall be inspected for safety and compliance with this ordinance at the discretion of the administrative officer.
4. When a building is constructed, remodeled, or expanded, all signs shall be approved by the appropriate official before an occupancy permit is issued. Drawings containing dimensions of signs and/or descriptions of sign dimensions, construction materials, and methods of erection or design and stress diagrams may be approved by the administrative officer or other appropriate official, when, in his best judgement, erection of the sign will not constitute a safety hazard and upon determination that the sign meets all the requirements of this ordinance and the building code of the Town of Tallulah Falls.

607.3. A fee as established by the governing body from time to time shall be charged for each sign requiring a separate inspection with the exception of pictorial murals as set out in section 602. for which no fee shall be charged.

Sec. 608. - Signs permitted by zoning district.

608.1. In R-I, R-II, SL, PUD, FH and A districts, the following signs shall be permitted:

1. Incidental use signs.
2. Accessory use signs.

608.2. In BD and HB districts: all signs set forth in this ordinance shall be permitted.

ARTICLE VII. - R-I, SINGLE-FAMILY RESIDENTIAL DISTRICT

Sec. 701. - Purpose and intent.

It is the intent of this district to establish and preserve quiet, single-family home neighborhoods as desired by large numbers of people, free from other uses except those which are both compatible and convenient to the residents of such a district.

Sec. 702. - Permitted uses.

1. Accessory buildings, but not including structures used for the keeping of livestock or poultry, provided such shall be permitted only in a rear yard and shall be not less than five (5) feet from any property line. Where the rear yard abuts a street, no accessory building shall be closer to the rear lot line than the required front setback for the district.
2. Accessory uses, including home gardens and non-commercial greenhouses, but not including the keeping of livestock or poultry.
3. Churches and their related religious activities, provided that any principal building shall be located at least fifty (50) feet from any property line and that required off-street parking be separated from any property line by an opaque fence at least six (6) feet high or a densely-planted buffer strip at least ten (10) feet wide.
4. Parks, playgrounds, community centers and golf courses, except commercial amusement parks, miniature golf courses, driving ranges or others operated for commercial purposes.
5. Public and semi-public buildings and uses.
6. Single-family, detached dwellings but not including mobile homes, recreational vehicles and travel trailers used as residences.

Sec. 703. - Conditional uses.

1. Home occupations conducted within a principal building by persons residing on the premises, provided that no more than thirty (30) percent of the floor area of the principal building shall be used for such purpose, that automobile repair facilities shall be excluded and that sufficient off-street parking shall be provided so that traffic can be handled without hazard or undue congestion in the neighborhood. Where noise is generated, an appropriate noise-resistant fence or combination fence-green buffer area shall be established.
2. Kindergartens, nursery schools, or day care centers serving not more than ten (10) persons, provided that outdoor play area is provided for each child and the outdoor play area shall be enclosed by an impervious fence as required by the Georgia Department of Human Resources.
3. Manufactured homes and modular homes on individual lots, but not including mobile homes, mobile home parks and manufactured home parks, subject to the following requirements:
 - a) The minimum width of said structure shall be at least sixteen (16) feet;
 - b) The minimum square footage of said home shall be at least nine hundred (900) square feet of area;
 - c) The home shall be attached to a permanent foundation;
 - d) All towing devices, wheels, axles and hitches must be removed;
 - e) At each exit door there must be a landing that is a minimum of thirty-six inches (36") by thirty-six inches (36");
 - f) The roof shall have a minimum 2:12 roof pitch (two feet of vertical height for each twelve feet of horizontal width) and shall have a surface of wood shakes, asphalt composition, wood shingles, concrete, fiberglass or metal tiles, slate, built up gravel materials, or other materials approved by the administrative officer;
 - g) The exterior siding materials shall consist of wood, masonry, concrete, stucco, masonite, or vinyl lap or other materials of like appearance;
 - h) Each home shall be provided with anchors and tiedowns such as cast-in-place concrete deadmen or other devices which secure the stability of the home, as approved by the administrative officer;
 - i) Each home shall be completely skirted with an appropriate barrier, properly ventilated, to enclose the area between the bottom of the structure and the ground. Such skirting shall not be required for those homes with a complete masonry or concrete perimeter foundation;

- j) Each home shall be established in accordance with installation instructions from the manufacturer, as appropriate;
- k) All utility connections, including but not limited to water, sanitary sewer/septic tank, electricity and gas shall be made as required by the administrative officer;
- l) Said home shall compare favorably to site built and other housing in the immediate general area within the same zoning or residential district or area;

provided, however that the administrative officer may recommend, and the town council may approve, deviations from one or more of the developmental and architectural standards provided herein on the basis of a finding that the materials to be utilized will be compatible and harmonious with existing structures in the vicinity.

- 4. Public and semi-public uses, after consideration of the following:
 - a. Whether or not traffic can be handled without hazard or undue congestion in the neighborhood; and
 - b. When noise will be generated that appropriate provisions for impervious fences, combination fence-green buffer area, or other effective and acceptable noise-dampening measures have been taken.

Sec. 704. - Height, placement, area and density requirements.

In accordance with article XV of this ordinance.

ARTICLE VIII. - R-II, MULTIPLE-FAMILY RESIDENTIAL DISTRICT

Sec. 801. - Purpose and intent.

It is the intent of this section to establish and preserve quiet residential districts offering a wide choice of housing types within the Town of Tallulah Falls which are suitable for both single- and multi-family dwellings, free from other uses except those which are both compatible with and convenient to the residents of such a district.

Sec. 802. - Permitted uses.

- 1. Any use permitted in the R-I district as specified in section 702, subject to the same conditions.
- 2. Any use specified in section 703, not subject to conditional use approval, but subject to the same conditions. Modular and manufactured homes shall meet the criteria specified for manufactured/modular homes in the R-I district (section 703).
- 3. Accessory buildings or uses customarily incidental to any of the above uses when located on the same lot and not involving the conduct of a business, including a storage garage on a lot occupied by a dwelling or institution.
- 4. Institutions of a religious, education, charitable, or philanthropic nature, but not a penal institution.
- 5. Rooming and boarding houses.
- 6. Two-family and multi-family dwellings including apartments and condominiums but not motels and hotels.
- 7. Townhouses, also called row houses, subject to the requirements of article XVI of this ordinance.

Sec. 803. - Height, placement, area and density requirements.

In accordance with article XV of this ordinance.

ARTICLE IX. - PUD, PLANNED UNIT DEVELOPMENT DISTRICT

Sec. 901. - Purpose and intent.

It is the intent of this section to:

1. Encourage the development of large tracts of land as planned neighborhoods or communities.
2. Encourage flexible and creative concepts in site planning.
3. Preserve the natural amenities of the land by encouraging scenic and functional open areas within residential areas.
4. Accomplish a more desirable environment than would be possible through the strict application of minimum requirements of the ordinance.
5. Provide for an efficient use of land resulting in smaller networks of utilities and streets and thereby lower development and housing costs.
6. Provide an environment of stable character compatible with surrounding residential areas.
7. Provide for a variety of land uses to be permitted, as approved by the mayor and town council, in an orderly relation to one another and to existing land uses, as well as with due regard to the comprehensive plan of the Town of Tallulah Falls.

Sec. 902. - Requirements and standards for approval.

1. A planned unit development must contain a minimum area of ten (10) contiguous acres.
2. The planning commission and the town council in their review of the proposed development plan shall consider:
 - a. The proper relation between the proposed development and surrounding uses, and the consistency with the comprehensive plan for Tallulah Falls.
 - b. The adequacy of existing and proposed streets, water, sewer, electrical, and gas service, and other public facilities to serve the development.
 - c. The character, design, and appropriateness of the proposed land uses and their adequacy to encourage desirable living conditions. To provide separation and screening between uses where desirable to preserve the natural amenities of streams, wooded areas, and similar natural features.
 - d. The adequacy of open space, play areas, and the recreation facilities provided for the needs of the development.
3. Approval and recommendation of the planning commission shall be accompanied by a report stating the reasons for approval of the application and specific evidence and facts showing that the proposed planned unit development will not adversely affect the property adjacent to the area included in the plan.
4. Final approval of a planned unit development shall not be granted until the owner of the property gives written notice of his consent to the proposed development.

Sec. 903. - Review and approval procedures.

1. Pre-application conference. Prior to filing a formal application for a planned unit development, the applicant is encouraged to confer with the staff of the planning commission in order to review the general character of the plan (on the basis of a tentative land use sketch if available), and to obtain information on projected programs and other matters.
2. Development plan.
 - a. An applicant shall file a petition with the administrative officer for approval of a planned unit development. This application shall be supported by a development plan and a written summary

of intent, and shall show the relation between the proposed development and the surrounding area, both existing and proposed.

- b. The following information shall be presented:
 - (1) A general location map.
 - (2) Existing topographic conditions, including contour intervals of no more than five (5) feet based on field surveys or photogrammetric methods.
 - (3) The existing and proposed land uses and the approximate location of all buildings and structures.
 - (4) The approximate location of existing and proposed streets and major thoroughfares.
 - (5) The approximate location of all existing and proposed utilities, including a preliminary utility and drainage plan.
 - (6) The present zoning pattern in the area.
 - (7) A legal description of the subject property.
 - (8) The location and use of existing and proposed public, semi-public, or community facilities such as schools, parks, and open area. This will include areas proposed to be dedicated or reserved for community or public use.
 - (9) Perspective drawings of representative building types except for detached single-family dwellings and their accessory buildings.
 - (10) If a proposed development creates special problems or involves unusual circumstances, additional information may be required in order to properly evaluate the proposal as follows:
 - (a) An off-street parking and loading plan.
 - (b) An economic feasibility report or market analysis.
 - (c) A traffic study of the area, and a circulation plan within the development and to and from existing streets and thoroughfares.
- c. The written statement submitted with the development plan shall include the following information:
 - (1) A statement of the present ownership of all land within the proposed development.
 - (2) An explanation of the character of the proposed development, including a summary of acres, dwelling units, and gross density by type of land use. The statement shall include minimum standards for flood area, lot size, yard and spacing requirements.
 - (3) A general statement of the proposed development schedule and progression of unit division of staging.
 - (4) Agreements, provisions, and covenants which govern the use, maintenance, and protection of the development and any common or open areas.
- d. Approval.
 - (1) An application for approval of a planned unit development will be considered administratively as a petition for rezoning, and will be subject to the procedures established in article XV of this ordinance concerning amendments.
 - (2) After a public hearing and receipt of the planning commission's recommendations, the town council shall approve, disapprove, or conditionally approve the development plan.
 - (3) If the development plan is approved as submitted, the administrative officer will cause the official zoning map to be changed to indicate the planned unit development. If the plan is approved with modifications, the applicant shall file written notice of consent to the

modifications and a properly revised site plan shall be filed with the administrative officer prior to changing the zoning map. The site plan and supporting information of any approved plan shall be properly identified and permanently filed with the administrative officer. No building permits shall be issued until the development plan has been approved by the town council.

3. Building and occupancy permits. The administrative officer shall issue building permits for buildings and structures in the area covered by the approved development plan if they are in substantial conformity with the approved development plan, the development schedule, and with all other applicable regulations. He shall issue a certificate of occupancy for any completed building or structure located in the area covered by the approved development plan if they conform to the requirements of the approved plan and all other applicable regulations.
4. Revision of development plan. Any major or substantial change in the approved development plan which affects the intent and character of the development, the density of land use pattern, the location or dimensions of streets, or similar substantial changes shall be reviewed and approved by the town council following receipt of recommendations from the planning commission. A request for a revision of the development plan shall be supported by a written statement indicating the nature of the revision and an explanation concerning the necessity or desirability for revising the plan.
5. Reversion of zoning approval. Approval of the town council shall be in effect for at least a two-year period. However, if no construction has begun within two (2) years after approval of the development plan, or if the applicant fails to maintain the approved development schedule, approval of the development plan shall lapse. At its discretion and for good cause, the town council may extend the period for beginning construction for any phase of the project for one (1) additional year. If the approval of a development plan lapses under this provision, the building or administrative officer shall cause the development to be removed from the official zoning map, file a notice of revocation with the recorded development plan, and reinstate the zoning district and regulations which were in effect prior to approval of the development plan.

Sec. 904. - Permitted uses.

The uses permitted within a planned unit development shall be primarily residential in character, and may include the following uses:

1. Accessory uses and structures.
2. Agriculture or horticulture subject to all other applicable regulations.
3. Churches, schools, community or club facilities, and similar public or semi-public facilities, including recreational facilities subject to conditions set out in the R-I district concerning such uses.
4. Commercial or retail uses, including offices and clinics provided that they meet the following criteria:
 - a. The location is appropriate in relation to other land uses.
 - b. The proposed use is designed so that it will primarily serve the planned development.
5. Duplexes and townhouses.
6. Multi-family dwellings.
7. Public and semi-public buildings and uses.
8. Single-family detached dwellings.

Sec. 905. - Conditional uses.

1. Group camp developments, with a minimum land area of ten (10) acres. Such development may include hotels, apartments, cabins, country clubs, trailer and tent accommodations, commercial boating facilities, and retail sales, providing such retail sales are incidental to the group camp

activities; provided, however, that there shall be a minimum of 4,000 square feet of lot area for each dwelling unit or non-housekeeping accommodation and that there shall be not less than twenty (20) feet of open space between buildings; provided that such group camp developments are not used as permanent residential accommodations by any group or member of a group, excepting managers, night-watchmen, or other employees whose duties require permanent residence on the premises.

2. Manufactured homes and modular homes on individual lots, but not including mobile home parks or manufactured home parks, or mobile homes.
3. Static electrical transformer stations and gas regulator stations if essential for the service of the immediate area and subject to the following conditions: such uses shall be enclosed within a woven wire fence, shall be suitably landscaped, and the storage of vehicles and equipment on the premises shall be prohibited.

Sec. 906. - Density controls.

The maximum number of dwelling units per acre in residential areas of a planned unit development shall not exceed 5.5 dwelling units per acre. For purposes of this section, density shall be interpreted as the number of dwelling units per gross acre developed to residential development. Gross acreage shall include, in addition to land area and parcels used primarily for residential purposes, all open spaces including private lakes reserved for common usage within the planned unit development and held under individual, common, or collective ownership. Gross acreage for residential development shall exclude areas reserved or dedicated for street rights-of-way.

The town council may allow a higher overall density, or a higher density of a particular residential use provided the applicant can show that such higher density will not be detrimental to the surrounding neighborhood. The town council shall consider a variance to the required density only on a favorable recommendation from the planning commission.

Land area proposed for common open space may be allocated to detached single-family dwellings, duplexes, townhouses, and multi-family use area in proportion to the ratio of the area of each use to the total area of residential use, provided that open space acreage allocated to a use must be reasonably accessible to that use.

Sec. 907. - Dimensional and bulk regulations.

The location of all proposed structures shall be as shown on the development plan, subject to minimum lot size, setback lines, lot coverage or floor area, specified in the approved plan. The proposed location and arrangement of structures shall not be detrimental to existing or proposed adjacent dwellings or to the development of the neighborhood.

Unless topographical or other barriers protect the privacy of existing adjoining uses, the town council, upon recommendation of the planning commission, may impose one or both of the following requirements:

- a. Structures or buildings located at the perimeter of the development shall be set back a distance of at least one hundred (100) feet to protect the privacy and amenities of adjacent, existing uses.
- b. Structures or buildings located at the perimeter of the development shall be permanently screened in a manner which sufficiently protects the privacy and amenities of the adjacent, existing uses.

Sec. 908. - Control of area following completion.

1. After completion of a planned unit development, the use of land and construction, modification or alteration of any buildings or structures within the area covered by the plan shall be regulated by the approved development plan.
2. No changes may be made in the approved development plan except as provided below:

- a. Minor extensions, alterations, or modifications of existing buildings or structures may be permitted after review and approval by the building and zoning officer and the planning commission, provided they are substantially consistent with purposes and intent of the development plan.
- b. Substantial change in permitted uses, location of building or other specifications of the development plan may be permitted following public hearing and approval by the town council after receipt of recommendations from the planning commission.

ARTICLE X. - BD, BUSINESS DISTRICT

Sec. 1001. - Purpose and intent.

The business district is intended to provide areas for limited small-scale commercial uses of a convenience nature serving nearby residential neighborhoods as opposed to a regional market. The district is not intended to accommodate automotive or other types of more intensive commercial activities that are of such magnitude or type that would result in the generation of excessive traffic, noise, odors, pollution, safety hazards, or other adverse impacts which would detract from the desirability of adjacent properties for residential use. In general, the business district includes offices and retail and service establishments but excludes those highway-oriented uses which involve use of chemicals and outside sales and storage.

Sec. 1002. - Permitted uses.

1. Accessory uses and structures normally incidental to principal permitted uses and structures.
2. Antique shops.
3. Art and school supply stores.
4. Bake shops and bakeries, but not including wholesale.
5. Banks and financial institutions, including drive-in, drive-through and automatic teller facilities as accessory uses, not to exceed 10,000 square feet of gross floor area.
6. Barber shops and beauty shops.
7. Book or stationary stores.
8. Bus stations and taxicab stands.
9. Churches, temples, synagogues and places of worship, and their customary accessory uses and structures, including cemeteries, provided principal buildings are setback at least fifty (50) feet from any residential zoning district and screened therefrom by an opaque fence or densely planted buffer strip.
10. Clubs, lodges, fraternal institutions and other places of public assembly for membership groups, non-profit or for profit, not to exceed 10,000 square feet of gross floor area.
11. Clothes pressing, repair, sale and rental, but not including department stores.
12. Convenience food and retail stores with or without retail gasoline sales.
13. Day care centers.
14. Dressmaking, millinery, sewing and tailor shops.
15. Drug stores.
16. Dry cleaners and laundromats not exceeding 2,500 square feet of total floor area.
17. Electronic equipment sales.
18. Food and grocery stores.

19. Food catering establishments.
20. Florist shops.
21. Gift shops.
22. Hardware stores, excluding outside sales and storage.
23. Hobby shops.
24. Hotels, motels, tourist homes, and bed and breakfast inns.
25. Ice cream and yogurt shops.
26. Instructional studios, such as music, dance, gymnastics, aerobics and martial arts.
27. Interior decorating shops.
28. Jewelry stores.
29. Libraries, museums and art galleries.
30. Locksmith shops.
31. Music stores.
32. Offices, business, medical, professional, insurance and real estate, and general.
33. Paint stores.
34. Parking garages and parking lots as principal or accessory uses.
35. Photocopying, printing and reproduction services not exceeding 2,500 square feet of total floor area.
36. Photography shops and studios.
37. Public and semi-public buildings and uses.
38. Radio and television repair and sales stores.
39. Record, tape, and video rental and sales stores.
40. Recycling collection centers, but not including processing of recyclable materials.
41. Residences, including single-family detached, duplexes, apartments, condominiums and townhouses (subject to article XVI), but not including mobile homes, modular homes, manufactured homes, mobile home parks, and manufactured home parks. This includes residential occupancy above the first floor of commercial buildings, subject to provision of required parking for all uses. Home occupations are permitted as accessory uses.
42. Restaurants, but not including drive-in or drive-through facilities.
43. Schools, public elementary, middle and secondary, and public and private colleges and universities.
44. Schools, parochial, private vocational, technical and others, non-profit or operated for profit.
45. Seasonal or temporary activities such as farmers' markets or produce stands, provided:
 - a) Adequate off-street parking is made available.
 - b) The activity will not create noise, dust, traffic hazards, or other nuisances not compatible with permanent uses in the district.
 - c) At the end of the season or temporary use, the premises shall be returned to their original condition before the use was instituted or a condition considered equivalent or better than the original condition.
46. Small appliance repair shops.
47. Snack and sandwich shops, but not including drive-in or drive-through facilities.

48. Sporting goods stores.
49. Theaters, indoor only.
50. Toy stores.
51. Travel agencies.
52. Watch and clock sales and repair shops.

Sec. 1003. - Outdoor sales, storage and display prohibited.

It shall be unlawful in the BD, Business District, to provide any outdoor storage, outdoor display, or outdoor sales on any portion of a subject lot.

Sec. 1004. - Height, placement, area and density requirements.

In accordance with article XV of this ordinance.

ARTICLE XI. - HB, HIGHWAY BUSINESS DISTRICT

Sec. 1101. - Purpose and intent.

The Highway Business District is intended to provide adequate space for various types of general business uses that serve residents on a community level rather than neighborhood level, including the retailing of major goods and services of large scale, automotive and other types of more intensive commercial activities and establishments that rely on highway-oriented, passer-by traffic.

Sec. 1102. - Permitted uses.

1. Any use permitted in the BD, Business District as enumerated in section 1002 of these regulations, but not subject to any specified square footage limitations.
2. Accessory uses and structures normally incidental to permitted principal uses.
3. Agricultural implement and equipment sales, service, rental and repair.
4. Amphitheaters and stadiums.
5. Animal hospitals and veterinary clinics.
6. Auction facilities.
7. Assembly halls, auditoriums and meeting halls.
8. Automobile, boat, truck, motorcycle, bicycle and other vehicle rental, repair, service and sales.
9. Automobile, boat, truck, motorcycle, bicycle and other vehicle parts sales.
10. Automobile car washes, including automated, full-service or self-service.
11. Billiard halls, poolrooms and amusement/video arcades.
12. Blueprinting establishments.
13. Bowling alleys.
14. Building materials sales and lumber yards.
15. Cabinet shops.
16. Camper and recreational vehicle sales, service and repair, but not including campgrounds or recreational vehicle parks.
17. Christmas tree sales.
18. Circuses and carnivals.

19. Contractor's establishments, building, electrical and plumbing.
20. Convalescent homes, nursing homes, group homes, rehabilitation centers, sanitariums and similar institutionalized residential facilities involving professional care and treatment.
21. Department stores.
22. Dry cleaning establishments, laundromats and laundries.
23. Equipment rental, sales and service.
24. Exterminators and pest control businesses.
25. Firearms sales and service, including gun clubs and indoor shooting ranges.
26. Firewood sales.
27. Flea markets.
28. Floor covering stores.
29. Funeral homes, mortuaries and mausoleums.
30. Furniture, fixtures and home furnishing stores, including rental, finishing, repair and sales but not manufacturing.
31. Garden supply centers, greenhouses and landscaping services.
32. Golf courses, golf driving ranges, miniature golf courses, and baseball batting cages.
33. Hardware stores, including outside sales and storage.
34. Health clubs and spas.
35. Heliports and helistops.
36. Hospitals and clinics.
37. Kennels.
38. Lawn mower rental, repair and sales and service shops.
39. Machine shops.
40. Mini-warehouses and mini-storage facilities, where no individual storage stall or compartment exceeds 500 square feet of total floor area.
41. Mobile/manufactured home and mobile/manufactured building sales, but not including residential occupancy of mobile homes.
42. Monument sales establishments.
43. Open air business uses.
44. Palm reading and fortune telling establishments.
45. Pawn shops.
46. Pet stores and grooming establishments.
47. Printing establishments.
48. Race tracks for animals or motor-driven vehicles, provided the site contains a minimum of fifteen (15) acres.
49. Radio and television studios, and cable television stations, including broadcasting towers and satellite receiving antennas as accessory uses.
50. Recycling collection centers, but not including the processing of recyclable materials.
51. Repair of household appliances.

- 52. Research and scientific laboratories.
- 53. Residences for a caretaker or night watchman.
- 54. Restaurants, including drive-in and drive-through facilities.
- 55. Sign fabrication and painting shops, occupying not more than 2,500 square feet of floor area.
- 56. Skating rinks.
- 57. Taxicab and limousine services.
- 58. Taxidermist shops.
- 59. Theaters, indoor and outdoor.
- 60. Welding shops.

Sec. 1003. - Conditional uses.

- 1. Campgrounds and recreational vehicle parks, subject to the requirements of the Tallulah Falls subdivision regulations and campground standards.
- 2. Warehousing and inside storage uses which occupy no more than 10,000 square feet of floor area.
- 3. Wholesale establishments which occupy no more than 10,000 square feet of floor area.

Sec. 1104. - Screening and setback required.

Any permitted use in an HB district shall be located at least fifty (50) feet from a residential district and separated from residential property lines by an opaque fence at least six (6) feet high or a densely-planted buffer strip at least ten (10) feet wide.

Sec. 1105. - Height, placement, area and density requirements.

In accordance with article XV of this ordinance.

ARTICLE XII. - A, AGRICULTURAL DISTRICT

Sec. 1201. - Purpose and intent.

It is the intent of this district to facilitate the orderly and economically efficient development of Tallulah Falls from existing built-up areas outward to the town's perimeter by establishing and preserving areas for low intensity uses such as agricultural, low density residential, and outdoor recreational uses in outlying areas without permitting an intensity of development which would require provision of additional public facilities and services in those areas until the land preserved for non-agricultural uses has been developed to the extent that agricultural land is needed for expansion of urban uses.

Sec. 1202. - Permitted uses.

- 1. Accessory buildings and uses including barns, poultry houses for family use only, and other structures for the maintenance of livestock; storage sheds; implement sheds; roadside stands for the sale of farm products; and similar uses.
- 2. Any agricultural or horticultural use, including livestock, and poultry; provided no building or enclosure for the maintenance or shelter of animals shall be located within three hundred (300) feet of any private residence, other than that of the owner, or any public building, and no closer than one hundred fifty (150) feet from any property line. Pastures are not considered enclosures under the provisions set out above. Shelters or enclosures for three (3) or less household pets may be located within the three hundred (300) foot requirement, provided they meet the provisions of the sanitary rules and regulations of Rabun or Habersham County and/or health regulations of the State of

Georgia. The definitions of "household pets" other than animals customarily kept as pets shall be determined by the appropriate health official.

3. Single-family residences including modular and manufactured homes, but not mobile homes, with a minimum lot size of one (1) acre, provided that any new residence, other than that of the owner, shall be located at least three hundred (300) feet from any building or structure used for the shelter or maintenance of farm animals. Modular and manufactured homes shall meet the criteria specified for manufactured/modular homes in the R-I district (section 703.).

Sec. 1203. - Conditional uses.

1. Churches and related activities and cemeteries with the provision of off-street parking facilities.
2. Customary home occupations conducted within a principal building by persons residing on premises, provided that not more than thirty (30) percent of the floor area of the principal building shall be used for such purpose and off-street parking is furnished.
3. Greenhouses and nurseries with provision of off-street parking.
4. Parks, playgrounds, and other outdoor recreational facilities, either public or commercial, with provisions for off-street parking.
5. Utility company facilities on premises which are necessary for the convenience and general welfare of the public such as telephone exchanges, pump houses, transformer substations, pressure reducers, cable easements, and similar installations. Such facilities shall be landscaped, enclosed by proper fencing, and buildings shall be architecturally harmonious with the surrounding area.

Sec. 1204. - Height, placement, area and density requirements.

In accordance with article XV of this ordinance.

ARTICLE XIII. - SL, SENSITIVE LAND DISTRICT

Sec. 1301. - Purpose and intent.

The spread of development and the increasing demands upon natural resources have had the effect of encroaching upon, despoiling, or eliminating many of the trees and other forms of vegetation and natural resources and processes associated therewith, which, if preserved and maintained in an undisturbed and natural conditions, constitute important physical, aesthetic, recreation, and economic assets to existing and future residents of Tallulah Falls. The purposes of this section are: to protect the woodlands, (hillside, streams and geologic features) of Tallulah Falls for their economic support of local property values when allowed to remain undisturbed for their natural beauty, wilderness character, geological, ecological, or historical significance; to provide for protection of the vast undeveloped land under present ownership of Georgia Power Company; to provide for the paramount public concern for these natural resources in the interest of health, safety, and general welfare of the residents of Tallulah Falls. It is the intent of this district to permit small scale silvicultural activities which are not inconsistent with the purposes of this article. Sensitive lands as shown on the official zoning map are generally lands containing severe slopes (40-50% and more) or are in such areas where substantial clearing of land could have an adverse effect on surface waters and watersheds.

Sec. 1302. - Permit required for land-disturbing activity.

Except as hereinafter provided in this section, it shall be unlawful for any person without obtaining a written permit from the zoning administrative officer to perform any stripping, remove or permit to be removed any trees or understory, with the exception of yard maintenance within the SL district; provided however, that no permit shall be required under this ordinance for the removal or trimming of dead, diseased or damaged trees or other woody vegetation, nor shall a permit be required for the removal of healthy, mature trees where documented need exists to stop the spread of insects or disease within or to other forested areas. Any such removal or trimming shall be the minimum necessary to accomplish the

purpose, shall be consistent with "Recommended Best Management Practices for Forestry in Georgia" as published by the Georgia Forestry Commission, and shall not be done until submittal of a site plan to the zoning administrative officer bearing the seal or signature of a registered professional forester or the Georgia Forestry Commission.

Sec. 1303. - Standards for issuance of land disturbance permit.

Since the environmental values, soil characteristics, tree growth, and related natural resources parameters will remain unique for each parcel of land and for each development application, each permit application shall be reviewed on an individual basis. Nonetheless, the following criteria must be considered and balanced with respect to each permit application under this section:

1. Residential living units shall blend into the natural setting of the landscape for the enhancement of sound orderly economic growth and development and for the protection of natural scenic beauty which is the basis for the economy in the Town of Tallulah Falls.
2. The protection and conservation of vegetation and irreplaceable natural resources from pollution, impairment, or destruction shall remain the paramount factor.
3. The relationship of streets, highways, and other transportation corridors to the SL district shall be considered along with alternatives for new transportation routes and for the location of the proposed development.
4. The physical geologic and man-made features, both on site and the surrounding area, shall be considered. These considerations shall include location of dams, possible land slide or land slump areas, falling rock areas, and any other potentially hazardous condition. Also, scenic views, vistas and aesthetically pleasing landscape shall be considered.
5. All recommendations by the planning commission under this section shall be consistent with the total, comprehensive community planning for the Town of Tallulah Falls.
6. The burden of demonstrating that there are no feasible and prudent development alternatives to that proposed in a permit application under the ordinance and that denial of any requested permit will prevent an owner of property in the Town of Tallulah Falls from securing a reasonable or fair economic return from his property shall be on the applicant.

Sec. 1304. - Permitted uses.

1. Conservation of soil, vegetation, water, fish, and wildlife.
2. Driveways and roads where alternative means of access are proven to be impractical.
3. Operation and maintenance of existing dams and other water control devices, if in compliance with state statutes.
4. Outdoor recreation, camping, field trails for nature study, hiking and horseback riding, boating, trapping, hunting, and fishing, where otherwise legally permitted and regulated.
5. Single-family residences with a minimum lot size of three acres, but not including mobile homes. Manufactured and modular homes shall meet the criteria specified for manufactured/modular homes in the R-I district.
6. Restricted forestry and silvicultural activities, subject to the permit requirements of section 1302, consistent with the permit standards established in section 1303, consistent with "Recommended Best Management Practices for Forestry in Georgia" as published by the Georgia Forestry Commission, and subject to the submittal of a site plan to the zoning administrative officer bearing the seal or signature of a registered professional forestry or the Georgia Forestry Commission as described below:
 - a. Prescribed burning, bushhogging, understory removal, planting of wildlife openings, plowing of firebreaks, and natural or artificial reforestation activities.

- b. Total tree removal on slopes of less than twenty percent in areas not to exceed five (5) acres; and partial selective tree removal (where existing tree density is not decreased by more than fifty percent) on slopes between twenty percent and less than forty percent in areas not to exceed three acres; provided such tree removal shall be situated in areas to minimize adverse aesthetic impacts, set back a minimum of 100 feet from any property line, set back a minimum of 200 feet from any perennial or intermittent stream indicated on a United States Geological Survey quadrangle map, and setback a minimum of 300 feet from any R-I zoning district boundary.

Sec. 1305. - Tree protection.

With any given lot zoned SL, sensitive land district, no more than twenty (20%) percent of the mature, healthy, existing trees, as defined, which are located on said lot, shall be cut, damaged, or destroyed.

Sec. 1306. - Maximum impervious surface coverage.

The impervious surface coverage, as defined by these regulations, shall not exceed 7.5% of the total land area of a given lot.

Sec. 1307. - Height, placement, area and density requirements.

In accordance with article XV of this ordinance.

ARTICLE XIV. - FH, FLOOD HAZARD DISTRICT

Sec. 1401. - Purpose and intent.

It is the intent of this section to promote the public health, safety, and general welfare and to minimize public and private losses due to flood conditions in specific areas of Tallulah Falls by provisions designed to: restrict or prohibit uses which are dangerous to health, safety, or property due to water or erosion hazards or which result in damaging increases in erosion or in historical flood heights or velocities; discourage individuals from buying lands which are unsuited for development or other intended uses due to flood or erosion conditions; control the alteration of natural flood plains, stream channels, and natural protective barriers which are involved in the accommodation of floodwaters; control filling, grading and mineral extraction which may increase erosion or flood damage; prevent and regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands; avoid losses resulting from periodic inundation which could result in the loss of property, create health and safety hazards, disrupt commerce and government services, call for extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.

Sec. 1402. - Permitted uses.

The uses listed below which have low flood damage potential and do not threaten other lands during times of flood shall be permitted within FH districts; provided, they are not prohibited by any other ordinance, and do not require: storage of materials, structures, flood control works, substantial filling or grading, or disturbance of stream banks or existing stream carrying capacities. No use shall be permitted which will impede or otherwise adversely affect the capacity of the channel or floodway of a stream, drainage ditch or any other drainage facility or system.

1. Public or private recreational uses such as camping, open space, boat docks, beaches, boat ramps, picnic tables and shelters, and other small platforms not subject to flood damage, and hiking and horseback riding trails, etc.

Sec. 1403. - Conditional uses.

1. The construction of soil erosion control and prevention structures or protective barriers provided they do not enhance floodwaters up or downstream or on other lands.
2. Uses or structures accessory to open space or permitted uses, provided they are not subject to floodwater damage, are properly anchored, and present no threat to the impairment of the free flow of such floodwaters.

Sec. 1404. - Height, placement, area and density requirements.

In accordance with article XV of this ordinance.

ARTICLE XV. - HEIGHT, PLACEMENT, AREA AND DENSITY REQUIREMENTS

Sec. 1501. - Building height and placement requirements.

Except as otherwise specifically provided in this ordinance, no structure shall be erected between any lot line and the pertinent setback distance listed in Table 1, and no structure shall be erected which exceeds the height limit specified in Table 1.

TABLE 1. HEIGHT LIMITS AND MINIMUM SETBACKS FROM PROPERTY LINES (IN FEET)

<i>District</i>	<i>Height Limitation</i>	<i>Front setbacks</i>		<i>Rear Setback*</i>	<i>Side Setback*</i>
		<i>Public Highways</i>	<i>Other Streets</i>		
Residential: single-family (R-I)	35	60	35	15	15
Multiple- family (R-II)	35	60	35	15	15
Planned unit development (PUD)	35	60	35	(Determined from plans.)	(Determined from plans.)
Business district (BD)	35	15**	15**	5**	0**
Highway business (HB)	35	30	30	15	15
Agricultural (A)	35	60	35	15	15
Flood hazard	35	(Determined	(Determined	(Determined	(Determined from plans in

(FH)		from plans in conditional use process)	from plans in conditional use process)	from plans in conditional use process)	conditional use process)
Sensitive Land (SL)	35	60	35	15	15*Requirements for townhouses are set out in article XVI.**Dwellings in the BD, except those on second floor of shops, shall meet the setback requirements for R-l districts.

1501.1. Where a lot abuts two streets, the front setback for that district shall apply to both frontages, including corner lots, reverse and double frontage lots.

1501.2. The side setback requirements apply to a side lot line and also to any lot line which is neither a front, rear, nor side lot line.

1501.3. The setback requirements of these regulations for dwellings shall not apply to any lot where the average setback on developed lots located wholly or in part within one hundred (100) feet on each side of such lot and within the same block and zoning district and fronting on the same street as such lot, is less than the minimum required setback. In such cases, the setback may be less than the required setback for the district but not less than the average of the existing setbacks on the developed lots. This section shall not be construed to allow less setback on lots which extend a developed area, but only to allow the filling in of vacant lots in developed areas.

1501.4. In such cases as the street right-of-way has not been established or cannot be determined, said front yard/front building setback requirement shall be measured from a point ten (10) feet beyond the construction limits of the road (edge of pavement or curb or edge of drainage ditch, whichever is greater).

1501.5. Height limitations shall not apply to chimneys, smokestacks, church spires and steeples, domes, flag poles, public monuments, observation towers, water towers, non-commercial radio and television towers, electricity transmission facilities and towers, and other similar utility structures.

Sec. 1502. - Lot requirements.

Except as otherwise specified in this ordinance, no structure shall be erected on any lot which does not fulfill the requirements for area, width, depth and density set out in table 2.

TABLE 2. MINIMUM STANDARDS FOR LOT WIDTH AND AREA AND DENSITY

		<i>Minimum Area in Square Feet</i>	
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<i>District</i>	<i>Minimum Lot Width in Feet</i>	<i>Per Lot</i>	<i>Per Dwelling Unit</i>	<i>Maximum Units Per Acre</i>
R-I	100	15,000	15,000	2.9
R-II	80	10,000	7,500	5.8
PUD	None	None	7,920	5.5*
BD	None	None	4,500	9.7
HB	None	None	4,500	9.7
A	None	43,560	43,560	1.0
SL	100	130,680	130,680	1 per 3 acres
FH	100	15,000	15,000	Determined from plans

NOTE: Health department may require a larger lot size if lots are not served by public water and sanitary sewerage.

*See section 906.

1502.1. Where the owner of a lot at the time of the adoption of this ordinance or his successor in title thereto does not own sufficient land to enable him to meet the minimum lot size requirements of these regulations, such lot may be used as a building site; provided that the town council, upon recommendation from the planning commission, and the appropriate health officer find that the owner's building plans are consistent with existing health codes, and that the building plans will not otherwise adversely affect the health, safety, welfare, convenience, or property values of the area.

1502.2. In a district which requires side setbacks, if two or more adjoining and vacant lots with continuous frontage are in a single ownership at the time this ordinance becomes effective and such lots are individually less than fifty (50) feet in width, such groups of lots shall be considered as a single lot or several lots of minimum permitted size, and the lot or lots in one ownership shall be subject to the requirements of this ordinance.

ARTICLE XVI. - TOWNHOUSE REGULATIONS

Sec. 1601. - Purpose and intent.

It is the intent of this section to facilitate appropriate intermingling of townhouses, in districts where they are permitted, with other types of housing to provide another means of efficient, economical, comfortable, and convenient use of land and open space to serve the public purposes of zoning by methods which are alternative to conventional arrangements of yards and building areas.

Sec. 1602. - Townhouse regulations.

Pursuant to the intent set out above, the following regulations shall apply to townhouses, except that said restrictions shall not necessarily apply within the PUD, Planned Unit Development district:

1. To avoid monotony of construction and confusion in locating houses, building lines of houses in the same row shall be staggered and facades of individual houses be varied by a minimum of two (2) feet.
2. Not more than ten (10) contiguous townhouses or less than three (3) shall be built in a row with the same or approximately the same building line.
3. Minimum width for the portion of the lot on which a townhouse is constructed shall be eighteen (18) feet.
4. Lot area shall average no less than two thousand four hundred (2,400) square feet, and the minimum of any single lot shall be two thousand (2,000) square feet.
5. No portion of a townhouse or accessory structure in or related to one group of contiguous townhouses shall be closer than twenty (20) feet to any portion of a townhouse or accessory structure related to another group or to any property line.
6. No side or rear yard, as such, is required in connection with any townhouse, except that the front yard shall be no less than thirty-five (35) feet in depth from the front property line to the building line and the side setback for corner lots shall be the same as the front setback. End buildings in each townhouse group shall conform to the side yard requirements for the district in which they are located. Each townhouse shall be located on its own lot.
7. Insofar as practicable, off-street parking facilities shall be grouped in bays, either adjacent to streets or in the interior of blocks. No off-street parking space shall be more than two hundred (200) feet by the most direct pedestrian route from a door of the dwelling unit it is intended to serve. On major thoroughfares, common parking facilities for three (3) or more automobiles shall provide space outside the public right-of-way for maneuvering incidental to parking.
8. Density shall not exceed the maximum dwelling units per acre permitted for the zoning district within which the subject property is located, as specified in section 1502.

ARTICLE XVII. - BOARD OF ZONING APPEALS

Sec. 1701. - Creation and composition.

A board of zoning appeals is hereby established. The board of zoning appeals shall perform all of its duties and exercise all of its powers in such a way that the purpose and intent of the zoning regulations shall be accomplished, public health, safety and welfare secured, and substantial justice done.

The governing body shall serve as the board of zoning appeals. Four (4) members present shall be required to constitute a quorum. The mayor shall preside over such meetings. The chairman shall not vote except in cases of a tie-vote between the other members. In cases of a tie-vote and the chairman excuses himself from voting, then such tie-vote shall constitute denial of said motion, application or action. A secretary shall be appointed, or in lieu of such appointment, the zoning administrative officer shall serve as the secretary of the board of zoning appeals.

Sec. 1702. - Meetings and records.

The board of zoning appeals shall meet at least one (1) time each month at the call of the chairman, or at such other times as the board of zoning appeals may determine (unless no regular business is scheduled), and all such meetings shall be open to the public. Meetings of the board of zoning appeals may be conducted on the same calendar day as a regular meeting of the mayor and city council. However, such meeting shall take place separate from such regular meeting and shall be adjourned or convened before or after such regular meeting. The board shall adopt rules for the transaction of

business, or in lieu of such rules, the board shall follow "Robert's Rules of Order," latest edition. The board shall keep record of its findings, proceedings and official determinations, which shall be kept separate from minutes of any other meetings of the governing body, showing the vote of each member on each question, or if absent or failing to vote, indicating such fact, and such records shall be public record and available for purchase by interested parties at a reasonable cost. The board shall have the power to subpoena and require the attendance of witnesses, administer oaths, compel testimony, and the production of books, papers, files and other evidence pertinent to the matters before it. On all appeals, applications and matters before the board, said board shall inform in writing all parties involved in its decision.

Sec. 1703. - Appeals.

The board is empowered to hear and decide appeals where it is alleged there is an error in any order, requirement, decision or determination made by the zoning administrative officer, any official in the interpretation or enforcement of these zoning regulations.

The board is empowered to hear an appeal made by any person, firm, or corporation, or by any officer, department, board, or bureau affected by any decisions of the zoning administrative officer or other official based on the zoning regulations.

Such appeal shall be taken within sixty (60) days, or as provided by the rules of the board, by filing with the zoning administrative officer notice of appeal specifying the grounds thereof. All papers constituting the record upon which the action appealed from was taken shall forthwith be transmitted to the board of zoning appeals.

The board shall select a reasonable time and place for the hearing of the appeal and give at least fifteen (15) days of public notice thereof and due notice to the parties in interest and shall render a decision on the appeal within a reasonable time.

Sec. 1704. - Variances.

The board of zoning appeals is hereby empowered to authorize upon application in specific cases such variance from the terms of these regulations 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 unnecessary hardship, so that the spirit of these regulations shall be observed, public safety and welfare secured, and substantial justice done. The existence of a non-conforming use of neighboring land, buildings or structures in the same zoning district or of permitted or non-conforming uses in other districts shall not constitute a reason for the requested variance. A variance may be granted in an individual case of unnecessary hardship, after appropriate application, upon specific findings that all of the following conditions exist. The absence of any one (1) of the conditions shall be grounds for denial of the application for variance.

1. There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape or topography that are not applicable to other land or structures in the same district; and
2. A literal interpretation of the provisions of these zoning regulations would create an unnecessary hardship and would deprive the applicant of rights commonly enjoyed by other property owners within the district in which the property is located; and
3. Granting the variance requested will not confer upon the property of the applicant any special privileges that are denied to other properties of the district in which the applicant's property is located; and
4. Relief, if granted, will be in harmony with the purpose and intent of these regulations and will not be injurious to the neighborhood or general welfare in such a manner as will interfere with or discourage the appropriate development and use of adjacent land and buildings or unreasonable affect their value; and
5. The special circumstances are not the result of the actions of the applicant; and

6. The variance requested is the minimum variance that will make possible the legal use of the land, building, or structure; and
7. The variance is not a request to permit a use of land, building or structures which are not permitted by right in the district involved.

Sec. 1705. - Conditional approval permitted.

In exercising the powers to grant appeals and approve variances, the board may attach any conditions to its approval which it finds necessary to accomplish the reasonable application of the requirements of these regulations.

In exercising its powers, the board of zoning appeals may, in conformity with the provisions of these regulations, reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination, and to that end shall have all of the powers of the zoning administrative officer and may issue or direct the issuance of a permit. The concurring vote of four (4) members of the board shall be necessary to reverse any order, requirement, decision or determination of the zoning administrative officer.

Sec. 1706. - Approval period limited.

No order of the board permitting the erection or alteration of a building or other variance shall be valid for a period of longer than six (6) months unless such use is established within such period; provided, however that such order by the board shall continue in force and effect if a building permit for said erection or alteration is obtained within such period, and such erection or alteration is started and proceeds to completion in accordance with such permit.

Sec. 1707. - Application, hearing and notice.

Applications for variance shall be made in accordance with all applicable provisions of article XIX.

ARTICLE XVIII. - ARCHITECTURAL AND DESIGN REVIEW^[2]

Footnotes:

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Editor's note— Section I of the ordinance adopted Nov. 3, 1995, repealed article XVIII, which pertained to architectural and design review.

ARTICLE XIX. - AMENDMENT, APPLICATION AND PROCEDURAL REQUIREMENTS

Sec. 1901. - Authority to amend.

The governing body may from time to time amend the number, shape, boundary or area of any district, or may amend any regulation pertaining to any district; or may amend any article or section of these regulations. The procedure for amending these regulations shall be as provided in this article.

Sec. 1902. - Initiation of zoning amendments.

A petition to amend the text of these zoning regulations or the official zoning map may be initiated by the governing body, the planning commission, or any person, firm, corporation or agency that owns property involved in a petition for amendment, subject to the provisions established herein.

Sec. 1903. - Frequency of application.

The governing body or the planning commission may at any time file, in its own name, an application for amendment to the text of the zoning regulations or the official zoning map, except that if a zoning

decision of the governing body is for the rezoning of property and the amendment to the zoning ordinance and map to accomplish the rezoning is defeated by the governing body, then the same property may not again be considered for rezoning until the expiration of at least six (6) months immediately following the defeat of the rezoning by the governing body.

A property owner or subsequent property owner shall not initiate action for a map amendment, conditional use permit, certificate of appropriateness or variance affecting the same or any portion of property more often than once every twelve (12) months from the date of any previous decision rendered by the governing body; provided, however, that a property owner may petition for the alteration, modification or deletion of conditions of zoning in accordance with the provisions of this article.

A property owner or subsequent property owner shall not initiate action for a text amendment affecting the same or any portion of property more often than once every twelve (12) months from the date of any previous denial rendered by the governing body.

Sec. 1904. - Withdrawal of amendment application.

Any petition for an amendment to the zoning regulations, official zoning map, conditional use approval, or variance may be withdrawn, at the discretion of the person or agency initiating such a request, at any time prior to final action by the governing body upon written notice to the zoning administrative officer. Any required application fees shall be refunded to the applicant only if such application has not been prepared and submitted for advertisement as determined by the zoning administrative officer.

Sec. 1905. - Application requirements.

Application materials specified in this section shall be required for the following petitions: amendments to the official zoning map, alterations or extensions of conditional zoning, conditional use permits, development plan approvals within the Planned Unit Development (PUD) district, and variances or appeals to the board of zoning appeals. Said requirements do not apply to applications for a certificate of appropriateness.

1. An application form furnished by the zoning administrative officer; and
2. A legal description of the property to be considered in the application. The legal description shall be by metes and bounds unless an alternative legal description is accepted by the zoning administrative officer. Boundary surveys of the property should be submitted with the application whenever available; and
3. A letter of intent which describes general characteristics of the proposed development such as type and time frame of development, background information in support of such application, and any other information deemed pertinent by the applicant. For variance applications, the letter of intent shall address the criteria specified in section 1706 of these regulations. For zoning map amendment applications, the letter of intent shall address the standards specified in section 1907 of these regulations. For conditional use permit applications, the letter of intent shall address the standards specified in section 1908 of these regulations.
4. A site plan with all information specified in section 1906 except that zoning map amendment applications for R-I zoning shall not require a site plan. Unless otherwise noted in the approval, the site plan submitted in support of an approved application shall be considered a part of the approval and must be followed.
5. A fee for said application as established by the governing body from time to time.
6. Applications which require action by the governing body shall also require disclosure of any conflicts of interest as specified in chapter 67A of the Georgia Code, "Conflict of Interest in Zoning Actions."

Applicants shall submit three (3) copies of any required site plans, development plans, and letters of intent to the zoning administrative officer for distribution to the applicable bodies and/or review agencies.

The zoning administrative officer may require more or less copies depending on the nature and extent of review.
required

Sec. 1906. - Site plan requirements.

All site plans required by this article shall, at a minimum, contain the following information:

1. Title of the proposed development and the name, address and telephone number of the property owner.
2. The name, address and telephone number of the architect, engineer or other designer of the proposed development.
3. Scale, date, north arrow, and general location map showing relationship of the site to streets or natural landmarks.
4. Boundaries of the subject property, all existing and proposed streets, including right-of-way and street pavement widths; buildings; water courses; parking and loading areas; and other physical characteristics of the property and proposed development.
5. Building setbacks, buffers, landscape strips, and tree protection zone.

Sec. 1907. - Criteria to consider for map amendments.

The applicant, staff, planning commission and governing body should review an application for zoning map amendment with regard to the following criteria:

1. The existing uses and zoning of nearby property and whether the proposed zoning will adversely affect the existing use or usability of nearby property.
2. The extent to which property values are diminished by the particular zoning restrictions.
3. The extent to which the destruction of property values 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.
5. The physical suitability of the subject property for development as presently zoned and under the proposed zoning district.
6. The length of time the property has been vacant, considered in the context of land development in the area in the vicinity of the property, and whether there are existing or changed conditions affecting the use and development of the property which give supporting grounds for either approval or disapproval of the rezoning request.
7. The zoning history of the subject property.
8. The extent to which the proposed zoning will result in a use which will or could cause excessive or burdensome use of existing streets, transportation facilities, utilities, schools, parks, or other public facilities.
9. Whether the zoning proposal is in conformity with the policy and intent of the comprehensive plan, land use plan, or other adopted plans.

The staff, planning commission and governing body may consider other factors deemed relevant before formulating recommendations and taking action on a particular request.

Sec. 1908. - Criteria to consider for conditional uses.

The applicant, staff, planning commission and governing body should review applications for conditional uses with regard to the following criteria:

1. Off-street parking and loading facilities are adequate in terms of location, amount and design to serve the use.
2. The number, size and type of signs proposed are compatible with the surrounding area.
3. The amount and location of open space and the provision of screening is such that buffering of incompatible uses is achieved.
4. Ingress and egress to the property is suitable and safe, and the effect of the proposed activity on traffic flow along adjoining streets is not adverse.
5. The location and intensity of outdoor lighting is such that it does not cast light on adjacent, adjoining or neighboring properties.
6. Hours and manner of operation of the proposed use are not inconsistent with adjacent and nearby uses.
7. Public facilities and utilities are capable of adequately serving the proposed use.
8. The proposed use will not have a significant adverse effect on the level of property values or the general character of adjacent land uses or the general area.
9. The physical conditions of the site, including size, shape, topography and drainage, are suitable for the proposed development.
10. The proposed use is consistent with the goals and objectives of the comprehensive plan of the Town of Tallulah Falls.

The staff, planning commission and governing body may consider other factors deemed relevant before formulating recommendations and taking action on a particular conditional use application.

Sec. 1909. - Public notice and public hearing required.

This section shall apply to all applications for amendments to the text of the zoning regulations, amendments to the official zoning map, petitions for variances and appeals to the board of zoning appeals, requests for conditional use approval, requests for alteration or extension of conditional zoning, and petitions for development approval for property within the PUD, Planned Unit Development district.

Upon receipt of a completed application, fees and other information required by this article, the zoning administrative officer shall cause notice of such application to be published at least one (1) time in a newspaper of general circulation in the community at least fifteen (15) days but not more than forty-five (45) days prior to the date of public hearing before the governing body. Said published notice shall include, as a minimum, the purpose, location, date and time of the public hearing before the governing body, the purpose, location, date and time of the public hearing before the planning commission, the location of the property being considered, the present zoning classification of the property, and proposed action to be taken, as appropriate, such as proposed zoning district, type of conditional use, variance to particular articles and sections, and so forth. The zoning administrative officer shall also cause to have posted in a conspicuous place on said property one (1) or more sign(s), each of which shall contain the information specified for published notices. The public hearing before the governing body shall not take place until said sign(s) have been posted for a least fifteen (15) days but not more than forty-five (45) days prior to the date of the public hearing. The public hearing before the planning commission may be held with less than fifteen (15) days' notice.

Public hearings regarding variances and appeals shall be held by the board of zoning appeals, and no action shall be taken on said applications until a public hearing has been held by the board of zoning appeals.

Public hearings may be delayed, rescheduled or continued at another time and date, provided announcement is given at the time and place of the initially scheduled and advertised public hearing, and provided such date, time and location of the public hearing to be delayed, rescheduled or continued is given. If the applicant of a petition before the planning commission or governing body fails to attend the public hearing, then the planning commission or governing body may require re-advertisement of the

subject petition at the expense of the applicant. If there is no quorum of the planning commission or governing body at the scheduled public hearing, then the public hearing(s) shall be rescheduled and re-advertised at the Town of Tallulah Falls' expense.

Sec. 1910. - Recommendation by zoning administrative officer.

The zoning administrative officer will, as appropriate, customarily submit to the recommending and/or decision making body, prior to a scheduled public hearing, copies of the site plan and letter of intent along with a written recommendation for approval, disapproval, deferral, withdrawal or other recommendation. Said recommendation shall include reasons for said recommendations, considered within the context of the appropriate criteria as specified by these regulations. The recommendations of the zoning administrative officer shall have an advisory effect only and shall not be binding on the governing body. Copies of the zoning administrative officer's recommendations, if prepared, shall be made available to the applicant and other interested parties upon completion and distribution to the appropriate bodies and at the public hearing.

Sec. 1911. - Planning commission recommendation.

Prior to the public hearing held by the governing body, the planning commission shall hold a public hearing on all applications for amendment to the text of the zoning regulations, amendments to the official zoning map, conditional use permit applications, petitions for alteration or extension of conditional zoning, requests for development plan approval within the PUD, Planned Unit Development district, and variances and appeals.

After completing its studies of the particular petition, the planning commission shall submit a recommended action in writing to the governing body. The planning commission may submit any additional report it deems appropriate. The recommendations of the planning commission shall have an advisory effect only and shall not be binding on the governing body. Copies of the planning commission's recommendations and reports shall be made available to the applicant and other interested parties upon completion and distribution to the governing body and at the public hearing before the governing body.

The planning commission shall have thirty (30) days within which to submit its recommendations. The governing body shall not take action on any of said applications, until it has received the recommendation of the planning commission within the specified time period. If the planning commission fails to submit a recommendation within the thirty (30) day period, it shall be deemed to have approved the proposed application.

Sec. 1912. - Conduct of public hearings.

All public hearings regarding applications considered by the board of zoning appeals, planning commission and governing body shall be held in accordance with any procedures adopted by said body and, in addition, shall be governed by the following procedure:

1. The presiding officer shall open the hearing by stating the specific application being considered at the public hearing. At this time the presiding officer may summarize the public hearing procedures.
2. The zoning administrative officer will present a description of the proposed application, any applicable background material, his/her recommendation regarding action on said application as appropriate, and the recommendations and reports of the planning commission as appropriate.
3. Persons who support the application will be asked to comment first. The petitioner may, upon recognition and upon statement of name and address, present and explain his application. The petitioner, or his designated agent, shall be required to attend the public hearing unless written notice of hardship is received prior to such meeting. Failure of the petitioner or agent to attend the public hearing or meeting, except in cases of hardship, may be due cause for dismissal or denial of such application. A time limitation may be imposed at the discretion of the presiding officer.

4. Persons who oppose the application will be asked to comment next. All interested parties after being recognized shall be afforded an opportunity to address the proposed application by standing before the appropriate body and identifying their name, address and interest along with any comments on the proposed application. A time limitation may be imposed at the discretion of the presiding officer.
5. The petitioner shall have an opportunity for summary remarks and rebuttal concerning the proposed application.
6. Upon the completion of any comments from interested parties and the petitioner, the public hearing shall be completed and adjourned.
7. All public comments having been heard, the members of the body considering the application may discuss the request among themselves. During this discussion period, the members of the body may call on the petitioner or other interested parties to clarify points made previously or to answer questions. Said petitioner or interested parties may respond upon recognition.

Sec. 1913. - Action by the appropriate body.

After the public hearing has been completed, the governing body may take action to approve or deny the request, refer the application back to the zoning administrative officer or planning commission for further study, or the governing body may table or defer action until a later meeting. The board of zoning appeals, after the public hearing has been completed, may take action to approve or deny the request, or defer action until a later meeting.

Sec. 1914. - Conditional approval permitted.

The zoning administrative officer and planning commission may recommend, and the governing body may approve, applications for zoning map amendments, conditional use permits, and applications for development approval within the PUD, Planned Unit Development district, subject to certain conditions, provided that said conditions are set forth in the ordinance regarding approval of such application. Said conditions of approval may reduce the number or type of permitted uses, limit the nature or scope of permitted uses, restrict certain activities on the property, restrict the number and kind of improvements which can be made on the property, stipulate specific acts which the property owner will perform, or any other conditions directly related to the physical use of land and which are designed to render the proposed zoning or use compatible with nearby properties. Applications for alteration or extension of conditional zoning shall be made in accordance with the requirements of this article.

Sec. 1915. - Reversion of conditional zoning and/or conditional use approval.

If, after twenty-four (24) months from the date the governing body approves a map amendment or conditional use permit, action has not been taken to utilize the property, pursuant to such conditions, such as securing a development permit, the approval shall expire. The governing body shall, by official action, cause the conditional use approval to expire or the zoning district to revert to the district classification assigned to the property immediately prior to the approval.

The zoning administrative officer shall notify all property owners in question of pending action to rescind or revoke approvals, and such notice shall be by certified mail, dated at least fifteen (15) days prior to the date of the governing body's scheduled meeting, and directed to the owner's address as it appears on the tax rolls of the governing body.

Prior to notification by the zoning administrative officer of any reversion of approval, the owner of the property in question may petition the governing body for a modification or extension of zoning or conditional use approval. Any such extension shall be valid for twenty-four (24) months from the date of approval. Only one (1) such extension shall be permitted.

Sec. 1916. - Approval required by appropriate body.

Applications for amendments to the text of the zoning regulations, zoning map amendments, alterations or extensions of conditional zoning, conditional use permits, and development within the PUD, planned unit development district, require approval by the governing body before development may be initiated or before such application is made effective. Applications for variances and appeals shall require approval by the board of zoning appeals before development may be initiated or before such application is made effective.

Sec. 1917. - Procedure for approved zoning ordinance text amendments.

The date of all approved amendments to the text of the zoning ordinance shall be indicated on the title/cover page of the text, and any sections within the zoning ordinance text hereafter amended or repealed shall be so indicated by an asterisk (*, **, ***, etc.) and concurring footnote providing the date such amendment was approved. All such text amendments shall be incorporated within the text without unreasonable delay.

ARTICLE XX. - ADMINISTRATION, INTERPRETATION, ENFORCEMENT, PENALTIES AND REMEDIES

Sec. 2001. - Administration and interpretation.

The provisions of this ordinance shall be administered by the zoning administrative officer who shall be appointed by the governing body and serve at its pleasure. The zoning administrative officer shall be responsible for interpretation of the provisions of these regulations and for maintenance of the official zoning map.

Sec. 2002. - Enforcement.

The provisions of these regulations shall be enforced by the administrative officer.

Sec. 2003. - Land disturbing activity permit required.

A land disturbing activity permit shall be required for any proposed use of land(s) or building(s) to indicate and ensure compliance with all provisions of these regulations before any building permit is issued or any improvement, grading, land disturbing activity or alteration of land(s) or building(s) commences; provided, however, that permits shall not be required for any land disturbing activities exempted in section III of the soil erosion and sediment control ordinance of the Town of Tallulah Falls, Georgia. Approval of a preliminary plat in accordance with all applicable provisions of the subdivision regulations shall constitute approval of the land disturbing activity permit for each subdivision, and plan approval of a planned unit development as specified in these regulations shall constitute approval of a land disturbing activity permit.

All land disturbing activity permits shall be issued by the administrative officer, who shall in no case approve a development permit for the use, construction, or alteration of any land or building if the land or building as proposed to be used, constructed or altered would be in violation of any of the provisions of these regulations or any other codes and laws. Land disturbing activity permits shall be valid for two (2) years from its issuance. If work described in any permit has not begun within one hundred twenty (120) days from the date of issuance thereof, said permit shall expire, and further work shall not proceed until a new development permit has been obtained.

Sec. 2004. - Building permit required.

No building, structure or sign, except as specifically exempted by these regulations, shall be erected, moved, extended, enlarged or structurally altered, nor shall any excavation or filling of any lot for the construction of any building be commenced until the zoning administrative officer has issued a building permit for such work in conformity with the provisions of these regulations. Applications for building permits shall be made in accordance with provisions of the Tallulah Falls building codes and shall be accompanied by plat plans in duplicate as required by the administrative officer.

Building permits shall become invalid unless the work authorized by it shall have been commenced within twelve (12) months of its date of issue, or if the work authorized by it is suspended or abandoned for a period of twelve (12) months or more.

Sec. 2005. - Certificate of occupancy required.

A certificate of occupancy issued by the administrative officer is required in advance of occupancy or use of any lot or change or extension in the use of any lot; any building or structure hereafter erected; or any change in the use of an existing building or structure. No such certificate shall be issued unless the proposed use of a building or land conforms to the applicable provisions of these regulations. Business licenses shall not be issued until the business conforms to the regulations of the district in which it is located and a valid certificate of occupancy is issued.

Sec. 2006. - Penalties for violation.

Any person, firm or corporation violating, neglecting or refusing to comply with any of the provisions of these regulations shall be guilty of a misdemeanor and, upon conviction, shall be fined not less than fifty (\$50) dollars nor more than two hundred (\$200) dollars for each offense, or as determined by the court of proper jurisdiction. Each day such violation continues shall constitute a separate offense.

Sec. 2007. - Remedies.

In case any building or structure is or is proposed to be erected, constructed, reconstructed, altered, converted or maintained, or any building structure or land is or is proposed to be used in violation of any provision of these regulations, the administrative officer or any other appropriate authority may, in addition to other remedies, and after due notice to the owner of the violation, issue a citation for violation of these regulations requiring the presence of the violator in the court of proper jurisdiction; institute injunction, or other appropriate action or proceeding to prevent such unlawful erection, construction, reconstruction, alteration, conversion, maintenance or use to correct or abate such violation or to prevent the occupancy of such building, structure or land. Where a violation of these regulations exists with respect to a structure or land, the administrative officer may, in addition to other remedies, require that utility service be withheld therefrom until such time as the structure or premises is no longer in violation of these regulations.

ARTICLE XXI. - LEGAL STATUS PROVISIONS

Sec. 2101. - Conflict with other laws.

Whenever the provisions of these regulations impose more restrictive standards than are required in or under any other statute, the provisions of these regulations shall govern. Whenever the provisions of any other statute require more restrictive standards than are required by these regulations, the provisions of such statute shall govern.

Sec. 2102. - Separability.

Should any article, section or provision of these regulations be declared invalid or unconstitutional by any court of competent jurisdiction, such declarations shall not affect the validity of these regulations as a whole or any part thereof which is not specifically declared to be invalid or unconstitutional.

Sec. 2103. - Repeal of conflicting ordinances.

All ordinances and resolutions and parts thereof in conflict herewith, specifically including, but not limited to, the previous zoning ordinance and the mobile home ordinance adopted May 4, 1982, are repealed.

Sec. 2104. - Effective date.

These regulations shall take effect and be in force from and after adoption, the public welfare demanding it.

CODE COMPARATIVE TABLE - LEGISLATION

This is a chronological listing of the ordinances used in this Code for which adoption dates or ordinance numbers are known.

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