

UPDATED October 7, 2008

1986-26

**ZONING ORDINANCE
CITY OF EUFAULA, ALABAMA**

AN ORDINANCE ESTABLISHING COMPREHENSIVE ZONING REGULATIONS FOR THE CITY OF EUFAULA, ALABAMA, AND PROVIDING FOR THE ADMINISTRATION, ENFORCEMENT, AND AMENDMENT THEREOF, IN ACCORDANCE WITH THE PROVISIONS OF THE AUTHORITY GRANTED BY CODE OF ALABAMA 1975, SEC. 11-52-1 et. seq.

WHEREAS, Code of Alabama 1975, Sec. 11-52-1, et. seq. empowers the City of Eufaula to enact a zoning ordinance and to provide for its administration, enforcement, and amendment, and

WHEREAS, the City Council deems it necessary, for the purpose of promoting the health, safety, morals, and general welfare of the City to enact such an ordinance, and

WHEREAS, the City Council has appointed the Planning Commission to recommend the boundaries of the various original districts and appropriate regulations to be enforced therein, and

WHEREAS, the Planning Commission has divided the City into districts and has prepared regulations pertaining to such districts in accordance with a comprehensive plan, and designed to lessen congestion in the streets, to secure safety from fire, panic, and other dangers, to promote health and the general welfare, to provide adequate light and air, to prevent the overcrowding of land, to avoid undue concentration of population, to facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements, and

WHEREAS, the Planning Commission has given reasonable consideration, among other things, to the character of the districts and their peculiar suitability for particular uses with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the municipality, and

WHEREAS, the City Council has given due public notice of hearings relating to zoning districts, regulations, and restrictions and has held such public hearings, and

WHEREAS, all requirements of Code of Alabama 1975, Sec. 11-52-1 et. seq., with regard to the preparation of the report of the Planning Commission and subsequent action of the City Council have been met,

NOW THEREFORE, THE PUBLIC WELFARE REQUIRING IT, be it ordained by the City Council of Eufaula, Alabama, as follows:

HELP FOR THE CONFUSED READER	
ABOUT	THEN
1. The uses allowed on your property	Find out what district the property is in and turn to that zone in Article 5
2. The yard requirements for your property	See the appropriate district in Article 5
3. Parking requirements	See Article 6 for the number, size and design of spaces
4. Signs	See the appropriate zoning district for the types of signs allowed and then see Article 6 for general rules about signs
5. Accessory uses and buildings	See the appropriate zoning in district in Article 5 for requirements and then Section 6.15 for other regulations
6. Zoning regulations which apply to all property	See Article 6 - General and supplemental regulations
7. Request a change in the zoning district your property is in	See Article 9 for Amendment procedures
8. Special development schemes such as a PUD, Flood Hazard areas, etc. and their review procedures	See Article 12
9. Where mobile homes are allowed	See Sections 5.21, 5.26, 5.27, and 12.4

TABLE OF CONTENTS

<u>Article/Section</u>	<u>Page</u>
Article One. Title, Short Title, Official Zoning Map	5
Section 1.1 Title	5
Section 1.2 Short Title	5
Section 1.3 Official Zoning Map	5
Section 1.4 Replacement of Official Zoning Map	5
Article Two. Rules for Interpretation of District Boundaries	7
Section 2.1 Boundary Interpretations	7
Article Three. Application of District Regulations	9
Section 3.1 Zoning Affects Every Building and Use	9
Article Four. Nonconforming Lots, Nonconforming Uses of Land, Nonconforming Structures, Nonconforming Uses of Structures and Premises, and Nonconforming Characteristics of Use	11
Section 4.1 Continuance of Nonconforming Uses	11
Section 4.2 Nonconforming Lots of Record	11
Section 4.3 Nonconforming Uses of Land	12
Section 4.4 Nonconforming Structures	12
Section 4.5 Nonconforming Uses of Structures or of Structures and Premises in Combination	13
Section 4.6 Repairs and Maintenance of Nonconforming Structures	14
Section 4.7 Uses Under Special Exception Provisions not Nonconforming Uses	15
Article Five. Classification of Schedule of District Requirements	17
Section 5.1 Classification of District	17
Section 5.2 Schedule of District Regulations	17
Article Six. General and Supplemental District Regulations	45
Section 6.1 General Provisions	45
Section 6.2 Supplemental Provisions	45
Section 6.3 Special Use Permits	53
Section 6.4 Reserved	55
Section 6.5 Site Plan Review and Approval	55
Section 6.6 Day Care Homes	58
Section 1, Article Six	58
Section 6.61 Minimum Landscape Requirement	58
Section 6.7 Sign Regulations	68
Section 6.8 Large-Scale Retail	86
Article Seven. Administration and Enforcement	93
Section 7.1 Administration	93
Section 7.2 Enforcement	93

<u>Article/Section</u>	<u>Page</u>
Article Eight. Board of Adjustment	97
Section 8.1 Establishment and Membership of the Board of Adjustment	97
Section 8.2 Meetings, Procedures and Records	97
Section 8.3 Appeals	98
Section 8.4 Hearing	98
Section 8.5 Duties and Powers	98
Section 8.6 Appeals from Action of the Board of Adjustment	102
Section 8.7 Conflicting Regulations	102
 Article Nine. Amendment	 103
Section 9.1 Zoning Amendment Petition	103
Section 9.2 Planning Commission Review	103
Section 9.3 Public Hearing on Proposed Amendment	103
Section 9.4 Time Limit	103
Section 9.5 Filing Fee	103
 Article 10. Legal Status Provisions	 105
Section 10.1 Interpretation	105
Section 10.2 Conflict with Other Ordinances	105
Section 10.3 Validity	105
Section 10.4 Penalties and Remedies	105
 Article 11. Definitions	 107
Section 11.1 General Terms	107
Section 11.2 Definition of Words and Phrases	107
 Article Twelve. Special Review Procedures	 115
Section 12.1 Planned Unit Developments	115
Section 12.2 Wellhead Protection Overlay Zone	124
Section 12.3 Flood Hazard Areas	125
Section 12.4 Transitional Areas of Placement of Mobile Homes	127
Section 12.5 Airport Hazard Areas	128
 Article Thirteen. Repeal of Conflicting Ordinances and Effective Date	 131
Section 13.1 Repeal of Conflicting Ordinances	131
Section 13.2 Effective Date	131

ARTICLE ONE
TITLE, SHORT TITLE, OFFICIAL ZONING MAP

Section 1.1 Title

The Ordinance shall be known and may be cited as "The Zoning Ordinance of the City of Eufaula, Alabama."

Section 1.2 Short Title

This Ordinance and all subsequent amendments, attachments, and supplements thereto, shall be known as the "Eufaula Zoning Ordinance."

Section 1.3 Official Zoning Map

The City is hereby divided into zones or districts, as shown on the Official Zoning Map which together with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of this ordinance.

1.31. The Official Zoning Map shall be identified by the signature of the Council President attested by the City Clerk, and bearing the seal of the City under the following words: "This is to certify that this is the official Zoning Map of the City of Eufaula, Alabama," together with the date of the adoption of this ordinance.

1.32. If, in accordance with the provisions of this ordinance changes are made in district boundaries, or other matter 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 City Council, with an entry on the Official Zoning Map, such changes shall be entered on the Official Zoning Map as follows: The new boundary line shall be drawn, and within the newly zoned area a circle shall be drawn and include the designation of the new zone, the ordinance number which approved the change, and the effective date of the change. Such changes shall be completed by the City Planner or a designee thereof.

1.33. No changes of any nature shall be made on 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 and punishable as provided under Article Seven.

1.34. 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 Eufaula Zoning Office at Eufaula City Hall, shall be the final authority as to the current zoning status of land and water areas, buildings, and other structures in the City.

Section 1.4 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 City Council may by resolution, 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 City Clerk, and bearing the seal of the City 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 part of the Zoning Ordinance of the City of Eufaula, Alabama."

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.

ARTICLE TWO
RULES FOR INTERPRETATION OF DISTRICT BOUNDARIES

Section 2.1 Boundary Interpretations

Where uncertainty exists as to the boundaries of districts as shown on the Official Zoning Map, the following rules shall apply:

2.11. Boundaries indicated, as approximately following the centerlines of streets, highways, or alleys shall be construed to follow such centerlines.

2.12. Boundaries indicated, as approximately following platted lot lines shall be construed as following such lot lines.

2.13. Boundaries indicated as approximately following city limits shall be construed as following such city limits.

2.14. Boundaries indicated as following railroad lines shall be construed to be midway between the main track(s).

2.15. Boundaries indicated as following shore lines shall be construed to follow such shore lines, and in the event of change in the shore line, shall be construed as moving with the actual shore line; boundaries indicated as approximately following the center lines of streams, rivers, canals, lakes, or other bodies of water shall be construed to follow such center lines.

2.16. Boundaries indicated as parallel to or extensions of features indicated in subsections 2.11 through 2.15 above shall be so construed. Distances not specifically indicated on the Official Zoning Map shall be determined by the scale of the map.

2.17. Where physical or cultural features existing on the ground are at variance with those shown on the Official Zoning Map, or in other circumstances not covered by subsections 2.11 through 2.16 above, the Board of Adjustment shall interpret the district boundaries, Any party aggrieved by any final judgment or decision of said Board of Zoning Adjustments may appeal said decision as provided for in Code of Alabama 1975, Section 11-5281.

2.18. Where a district boundary line divides a lot which was in single ownership at the time of passage of this ordinance, the Board of Adjustment may permit, as a special exception, the extension of the regulations for either portion of the lot.

This page is intentionally left blank

ARTICLE THREE
APPLICATION OF DISTRICT REGULATIONS

Section 3.1 Zoning Affects Every Building and Use

The regulations set by this ordinance within each district shall be minimum regulations and shall apply uniformly to each class or kind of structure or land, and particularly, except as hereinafter provided:

3.11. No building, structure, or land shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, reconstructed, moved, or structurally altered except in conformity with all of the regulations herein specified for the district in which it is located.

3.12. No building or other structure shall hereafter be erected or altered:

3.121. To exceed the height or bulk

3.122. To accommodate or house a greater number of families

3.123. To occupy a greater percentage of lot area

3.124. To have narrower or smaller rear yards, front yards, side yards, or other open spaces than herein required, or in any other manner contrary to the provisions of this ordinance.

3.13. No part of a yard, or other open space, or off-street parking or loading space required about or in connection with any building for the purpose of complying with this ordinance shall be included as part of a yard, open space, or off-street parking or loading space similarly required for another building.

3.14. No yard or lot existing at the time of passage of this ordinance shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this ordinance shall meet at least the minimum requirements established by this ordinance.

3.15. All territory which may hereafter be annexed to the City shall be considered to be in the FAR, Forestry, Agricultural and Residential District, until otherwise classified.

This page is intentionally left blank

ARTICLE FOUR
NONCONFORMING LOTS, NONCONFORMING USES OF LAND,
NONCONFORMING STRUCTURES, NONCONFORMING USES OF STRUCTURES
AND PREMISES, AND NONCONFORMING CHARACTERISTICS OF USE

Section 4.1. Continuance of Nonconforming Uses

Within the districts established by this ordinance, or amendments that may later be adopted, there may exist lots, structures, uses of land and structures, and characteristics of use which were unlawful before this ordinance was passed or amended, but which would be prohibited, regulated, or restricted under the terms of this ordinance or future amendment. It is the intent of this ordinance to permit these nonconformities to continue until they are removed, but not to encourage their survival. It is further the intent of this ordinance that nonconformities shall not be enlarged upon, expanded or extended, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same district.

4.11. Extension of Nonconformities: Nonconforming uses are declared by this ordinance to be incompatible with permitted uses in the districts involved. A nonconforming use of a structure, a nonconforming use of land, or a nonconforming use of structure and land in combination shall not be extended or enlarged after passage of this ordinance by attachment of a building or premises, or by the addition of other uses, of a nature which would be prohibited generally in the district involved.

4.12. Construction Prior to Adoption: To avoid undue hardship, nothing in this ordinance shall be deemed to require a change in the plans, construction, or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this ordinance and upon which actual building construction has been carried on diligently.

4.121. Actual construction is hereby defined to include the placing of construction materials in permanent position and fastened in a permanent manner.

4.122. Where excavation or demolition or removal of an existing building has been substantially begun preparatory to rebuilding, such excavation or demolition or removal shall be deemed to be actual construction, provided that work shall be carried on in accordance with Section 4.121 within thirty (30) days of adoption of this ordinance.

4.123. Continuation. Any nonconforming use may be continued indefinitely although such use does not conform to the provisions of this Zoning Ordinance. Unless specifically provided by the Board of Adjustment for a particular use, no change in title or possession or any other change in status of a property on which a nonconforming use exists shall prevent the continuance of such nonconforming uses.

Section 4.2. Nonconforming Lots of Record

In any district in which single family dwellings are permitted a single family dwelling and customary accessory buildings may be erected on any single lot of record at the effective date of adoption or amendment of this ordinance notwithstanding limitations imposed by other

provisions of this ordinance but subject to the limitations imposed by this section. Such lot must be in separate ownership and not of continuous frontage with other lots in the same ownership. This provision shall apply even though such lot fails to meet the requirements for area or width, or both, that are generally applicable in the district, provided that yard dimensions and requirements other than these applying to area or width, or both, of the lot shall conform to the regulations for the district in which such lot is located, provided further that in the event said lot is not serviced by a sanitary sewer, a certificate of approval as to the suitability of said lot for a septic tank is first obtained from the appropriate health authority. Variance of yard requirements shall be obtained only through action of the Board of Adjustment.

4.21. If, however, the owner of two or more adjoining lots each of which is insufficient in land dimensions decides to build on or to sell one of these lots, he must first combine lots to comply with the dimensional requirements of the ordinance. The Board of Adjustment may, by variance, reduce or waive the yard requirements on nonconforming lots where enforcement of the yard requirements would create an excessively small or narrow building area. The Board shall, in its deliberations on appeal for a variance, take into consideration typical lot sized and existing yards in the general area where the nonconforming lot is located, giving particular attention to existing uses and setbacks on adjacent property.

Section 4.3. Nonconforming Uses of Land

Where at the time of passage of this ordinance lawful use of land other than lots provided for in Section 4.2, *infra*, exists which would not be permitted by the regulations imposed by this ordinance, and where such use involves no individual structure with a replacement cost exceeding \$1,000, the use may be continued so long as it remains otherwise lawful, provided:

4.31. Extension of Nonconforming Use: No such nonconforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this ordinance.

4.32. Relocation of Nonconforming Use: No such nonconforming use shall be moved in whole or in part to any portion of the lot or parcel other than that occupied at the effective date of adoption or amendment of this ordinance.

4.33. Discontinuance of Nonconforming Use: If any such nonconforming use of land ceases for any reason for a period of more than 120 days, any subsequent use of such land shall conform to the regulations specified by this ordinance for the district in which such land is located.

4.34. Additional Structures: No additional structure not conforming to the requirements of this ordinance shall be erected in connection with such nonconforming use of land.

Section 4.4. Nonconforming Structures

Where a lawful structure exists at the effective date of adoption or amendment of this ordinance that could not be built under the terms of this ordinance by reason of not being in the proper district, restrictions on area, lot coverage, height, yards, its location on the lot, or other requirements concerning the structure, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

4.41. Extension of Nonconforming Structure: No such nonconforming structure may be enlarged or altered in a way which increases its nonconformity, but any structure or portion thereof may be altered to decrease its nonconformity.

4.42. Replacement and/or Tearing Down of Nonconforming Structure: Should such nonconforming structure or nonconforming portion of structure be destroyed or damaged by any means exceeding its full value above foundation for ad valorem tax purposes it shall not be reconstructed except in conformity with the provisions of this ordinance. If the structure cannot be reconstructed or repaired because of the application of this Article, it shall be the owner's responsibility to demolish said structure and to remove all debris within the sooner of 180 days of the date the structure was damaged or destroyed or within 120 days of the date the Board of Adjustment denies a building permit.

4.43. Relocation of Nonconforming Structure: Should such structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the district in which it is located after it is moved.

4.44. Existing Nonconforming Mobile Home: Such mobile home may be replaced, subject to requirements of Section 5.239.

Section 4.5. Nonconforming Uses of Structures or of Structures and Premises in Combination

If a lawful use involving individual structures with a replacement cost of \$1,000 or more, or of structure and premises in combination, exists at the effective date of adoption or amendment of this ordinance that would not be allowed in the district under the terms of this ordinance, the lawful use may be continued so long as it remains otherwise lawful, subject to the following provisions:

4.51. Extension of Nonconforming Use of Structure: No existing structure devoted to a use not permitted by this ordinance in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved, or structurally altered except in changing the use of the structure to a use permitted in the district in which it is located.

4.52. Extension of Nonconforming Use: Any nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such at the time of adoption or amendment of this ordinance, but no such use shall be extended to occupy any land outside such building.

4.53. Change to Nonconforming Use: In changing a nonconforming use to another nonconforming use the Board of Adjustment shall render such decisions only if the following conditions are satisfied.

4.531. Change shall be permitted only by special exception under the provisions of Section 8.512-8.514.

4.532. The applicant must show that the nonconforming use cannot reasonably be changed to a permitted use.

4.533. The applicant shall show that the proposed change must be less objectionable in external effects than the existing nonconforming use with respect to:

1. Traffic generation and congestion including truck, passenger car, and pedestrian traffic
2. Noise, dust, smoky glow, fumes, vapors, etc.
3. Storage and waste disposal
4. Appliances

4.534. The proposed use is a permitted use in one or more zoning districts.

4.54. Establishment of Conforming Use: Any structure, or structure and land in combination, in or on which a nonconforming use is superseded by a permitted use, shall thereafter conform to the regulations for the district, and the nonconforming use may not thereafter be resumed.

4.55. Discontinuation of Nonconforming Use: When a nonconforming use of a structure, or structure and premises in combination, is discontinued or abandoned for twelve (12) consecutive months or for eighteen (18) months during any three-year period (except when government action impedes access to the premises), the structure or structure and premises in combination shall not thereafter be used except in conformity with the regulations of the district in which it is located,

4.56. Elimination of Nonconforming Mobile Homes: When a nonconforming mobile home is moved from its site, or upon violation of any other applicable ordinance requiring vacating the mobile home as a residence, shall be considered grounds for elimination of the nonconformity. In those instances where a nonconforming mobile home is vacant for three (3) consecutive months or nine (9) months in any two (2) year period, it shall not be occupied again and the nonconformity shall be removed

4.57. Elimination of Nonconforming Status of Land: Where nonconforming use status applies to a structure and premises in combination removal or destruction of the structure shall eliminate the nonconforming status of the land. Destruction for the purpose of this subsection is defined as damaged to an extent of more than 50 percent of the replacement cost at time of destruction

Section 4.6. Repairs and Maintenance of Nonconforming Structures

On any nonconforming structure or portion of a structure containing a nonconforming use, work may be done in any period of 12 consecutive months on ordinary repairs, or on repair or replacement of the nonbearing walls, fixtures, wiring, or plumbing, to an extent not exceeding 10 percent of the current replacement cost of the nonconforming structure or nonconforming portion

of the structure as the case may be, provided that the cubic content existing when it becomes nonconforming shall not be increased.

4.61. Unsafe Structures: If a nonconforming structure or portion of a structure containing a nonconforming use becomes physically unsafe or unlawful due to lack of repairs and maintenance and is declared by any duly authorized official to be unsafe or unlawful by reason of physical condition, it shall not thereafter be restored repaired, or rebuilt except in conformity with the regulations of the district in which it is located,

4.62. Restoration of Safe Conditions: Nothing in this ordinance shall be deemed to prevent the strengthening or restoring to a safe condition of any building of part thereof declared to be unsafe by any official charged with protecting the public safety upon order of such officials

4.63. Prior Approval of Board of Adjustment: In order to insure maximum conformity with this section, before a building permit may be obtained by any person for repairs, replacement additions alterations improvements, changes or demolitions to a structure which does not conform to this section, said application must first be approved by the Board of Adjustment.

Section 4.7. Uses Under Special Exception Provisions not Nonconforming Uses

Any use which is permitted as a special exception in a district under the terms of this ordinance (other than a change through Board of Adjustment action from a nonconforming use to another use not generally permitted in the district) shall not be deemed a nonconforming use in such district, but shall without further action be considered a conforming use.

This page is intentionally left blank

ARTICLE FIVE
CLASSIFICATION OF SCHEDULE OF DISTRICT REQUIREMENTS

Section 5.1. Classification of District

For the purpose of this ordinance the City of Eufaula is hereby divided into the following zone districts: FAR Forestry-Agricultural-Residential; R-1, Low Density Residential; R-2, Medium Density Residential; R-3 and R-4, High Density; MHR, Mobile Home Residential; MHP, Mobile Home Park; C-1, Neighborhood Commercial; C-2, General Commercial; C-3, Central Business District; C-4, Highway Commercial; M-1, Light Industrial; M-2, Heavy Industrial; PH, Professional Office/Historic Tourist; E-1, Estate District.

Section 5.2. Schedule of District Regulations

Within the following zoning districts as shown on the official Zoning Map of the City of Eufaula Alabama the following regulations shall apply:

5.21. FAR: Forestry-Agricultural-Residential

5.211. Statement of Intent

The intent of the Forestry-Agricultural-Residential District is to provide for the preservation of prime agricultural/forestry lands; to provide for the preservation of natural and scenic areas needed for outdoor recreation, open space, water aquifer rechargers, essential drainage areas; and to provide for protection of such lands from premature or incompatible development, yet provide an opportunity for the best use of land through various development schemes.

5.212. Uses Permitted

1. General and specialized farming, forestry and agricultural uses, except commercial animal feed lots and poultry farms.
2. Roadside stands for the sale of produce raised on the farm premises.
3. Conservation areas and structures for the development, protection, preservation and conservation of open space, watersheds, water, soil, forest and wildlife resources.
4. Parks, playgrounds, playfields, general recreation facilities, golf courses and clubhouses.
5. Single family detached dwellings, to include mobile homes on single family lots.
6. Accessory structures or uses customarily incidental to any of the aforementioned permitted uses.
7. Plant nurseries and greenhouses.
8. Churches and other places of worship.
9. Schools offering general education courses.
10. Hospitals, sanitariums, nursing homes, and orphanages.

5.213. Uses Permitted on Appeal

1. Home occupations in accordance with the provision of Section 6.24.
2. Clubs operated and owned by non-profit corporations.
3. Resorts, campgrounds, riding academies and stables.
4. Airports.

5. Sanitary landfills, quarries.
6. Cemeteries.
7. Railroad rights-of-way and essential community facilities.
8. Tourist courts, tourist homes, motor courts, hotels,
9. Accessory structures or uses customarily incidental in any of the aforementioned special exceptions.
10. Day Care Home, subject to the requirements of Section 6.6.

5.214. Standards for Uses Permitted on Appeal

1. All special exceptions in FAR Districts should comply with the forestry-agricultural-residential intent expressed, for this district, Section 5.211.
2. Special exceptions for uses not directly related to the promotion of forestry-agricultural-residential uses or not classified as providing essential facilities and services for residents of FAR Districts shall not be issued by the Board of Adjustment unless it can be shown to the satisfaction of the Board of Adjustment that such use would not be detrimental to the preservation of FAR lands; and
3. That no other available lands within the City of Eufaula are suitable for such development.
4. Standards for uses permitted on appeal must meet the general criteria established in Section 8.512 of this Zoning Ordinance.

5.215. Uses Prohibited

Residential, commercial and industrial uses not specifically permitted.

5.216. Required Lot Area, Lot Width, Yards and Building Area

Dwellings and other structures shall be located so as to comply with the following requirements:

Minimum required lot area: 15,000 sq. ft.

If access to community sewage system is not available, and a larger minimum area is required to meet the percolation standards for the Barbour County Board of Health, Board of Health minimums shall prevail.

Minimum required corner lot width at building line:	100 ft.
Minimum required inside lot width at building line:	100 ft.
Minimum required corner lot yard width from all streets:	35 ft.
Minimum required depth of front yard:	45 ft.
Minimum required width of each side yard:	20 ft.
Minimum required rear yard:	40 ft.
Maximum total building area of total lot:	20 %
Accessory Structures: rear and side yard:	3 ft.

5.217. Heights of Buildings

No building shall exceed two and one-half (2 1/2) stories or thirty-five (35) feet in height except in the case of towers, spires, domes or other such structures not designed for human occupancy, which may exceed this height provided such structures comply with the provisions of all other pertinent codes and ordinances, and provided further, that such structures are located no closer to the nearest property lines than the distance equal to their height plus ten (10) feet.

5.22. R-1, Low Density Residential

5.221. Statement of Intent

The intent of the R-1, Low Density Residential District is to provide a quality living environment through the provision of land for low density residential uses consisting of single family dwellings and essential community facilities and services supporting such residential uses.

5.222. Uses Permitted

1. Single family dwellings and associated accessory structures and uses customarily incidental thereto.
2. On-site signs, only in accordance with the provisions specified in Article 6.21.
3. Schools, churches, public facilities.

5.223. Uses Permitted on Appeal

1. Public parks, recreational facilities, public utilities.
2. Associated structures or uses customarily incidental to the uses permitted on appeal.
3. Home occupations only in accordance with the provisions specified in Article 6.24.
4. Day Care Home, subject to the requirements to Section 6.6.

5.224. Standards for Uses Permitted on Appeal

1. All uses permitted on appeal in R-1 District shall be in compliance with the intent of this district as expressed in Section 5.221.
2. Nonresidential uses permitted on appeal defined as compatible in the residential area shall have property access to an identified collector street.
3. The use of exterior lighting systems for special uses shall be allowable only on approval of the Board of Adjustment. Such system, if approved, must be so designed as to reflect light away from adjoining premises and streets. Private security lights are exempt from requirement of approval by the Board of Adjustment but must meet the requirements for residential lighting as outlined in Section 11.25 of this ordinance.
4. Hours of operation for nonresidential uses permitted on appeal in a Residential R-1 District may be limited by the Board of Adjustment to promote the intent of this ordinance.
5. All uses permitted on appeal must meet the general criteria established in Section 8.512 of this Zoning Ordinance.

5.225. Uses Prohibited

1. Mobile homes.
2. Commercial and industrial uses not specifically permitted.
3. Multi-family dwellings.

5.226. Required Lot Area, Lot Width and Building Area

Dwellings and other structures shall be located so as to comply with the following requirements:

Minimum lot area: 15,000 sq. ft.

If access to community sewage system is not available, and a larger minimum area is required to meet the percolation standards for the Barbour County Board of Health, Board of Health minimums shall prevail.

Minimum required corner lot width at building line:	100 ft.
Minimum required inside lot width at the building line:	100 ft.
Minimum required corner lot yard width from all streets:	35 ft.
Minimum required depth of front yard:	35 ft.
Minimum required width of each side yard:	10 ft.
Minimum required rear yard:	40 ft.
Maximum total building area of total lot:	35 %
Accessory Structures: rear and side yard:	3 ft.

5.227. Height of Buildings:

1. No dwelling shall exceed two and one-half (2 1/2) stories or thirty-five (35) feet in height.
2. No accessory structures shall exceed two (2) stories or twenty-five (25) feet in height.
3. No building shall exceed two and one-half (2 1/2) stories or thirty-five (35) feet in height, except in the case of towers, to include TV and short wave radio antenna, spirals, domes or other such structures not designed for human occupancy, which may exceed this height provided that such structures comply with the provisions of all other pertinent codes and ordinances, and further provided that such structures are located no closer to the nearest property line than the distance equal to their height plus 10 feet.

5.23. R-2, Medium Density Residential

5.231. Statement of Intent

The intent of this district is to promote a quality living environment through the provision of land for medium density residential uses including single family and duplex residences on moderate lots and essential community facilities and services for such residential uses.

5.232. Uses Permitted

1. Single family dwellings.
2. Two-family dwellings.
3. Churches, schools, public facilities.
4. On-site signs, only in accordance with the provisions specified in Article 6.21.

5.233. Uses Permitted on Appeal

1. Public parks and recreational facilities, public utilities.
2. Associated accessory structures or uses customarily incidental to the use permitted on appeal.
3. Home occupations, only in accordance with the provisions specified in Article 6.24.
4. Townhouses as specified in these district regulations.
5. Day Care Homes, subject to the requirements of Section 6.6.
6. Manufactured homes, subject to requirements of Section 5.239.

5.234. Standards for Uses Permitted on Appeal in R-2 Districts

1. All uses permitted on appeal in an R-2 Residential District shall be in compliance with the intent of these district regulations as expressed in section 5.231.

2. Uses permitted on appeal not directly related to the promotion of a quality living environment and not classified as providing essential facilities and services for residences of this district shall not be issued by the Board of Adjustment.
3. Nonresidential uses permitted on appeal defined as compatible in an R-2 Residential District shall have property access to an identified collector street.
4. The use of exterior lighting systems for uses permitted on appeal in an R-2 District shall be allowable only on approval of the Board of Adjustment. Such systems, if approved, must be so designed as to reflect the light away from adjoining premises and streets.
5. Hours of operations for nonresidential uses permitted on appeal in an R-2, Residential District may be limited by the Board of Adjustment to further promote the intent of this ordinance.
6. All uses permitted on appeal must meet the general criteria established in Section 8.512 of the Zoning ordinance.
7. Nonresidential uses shall conform to the off- street parking requirements as set forth in Section 6.22.

5.235. Uses Prohibited

1. Commercial and industrial uses not specifically permitted.
2. Multi-family (three or more) dwellings.

5.236. Required Lot Area, Lot Width, Yards and Building Areas

Dwellings and other structures shall be located so as to comply with the following requirements:

Minimum required lot area

Single-family dwellings:	12,000 sq. ft.
Two-family dwellings:	15,000 sq. ft.

If access to community sewage system is not available, and a larger minimum area is required to meet the percolation standards for the Barbour County Board of Health, Board of Health minimums shall prevail.

Minimum required corner lot width at building line	
Single family house:	90 ft.
Two-family dwellings:	100 ft.
Minimum required inside lot width at building line	
Single family dwelling:	75 ft.
Two residences:	85 ft.
Minimum corner lot yard width from all streets:	35 ft.
Minimum required depth of front yard:	35 ft.
Minimum required width of each side yard:	10 ft.
Two & multi-family residences:	12 ft.
Minimum required rear yard:	40 ft.
Maximum total building area of total lot:	35%
Accessory structures: rear and side yard:	3 ft.

5.237. Special Requirements for Townhouses/Condominiums

1. No building permit shall be issued for townhouses, and the Board of Adjustment shall not issue a special exception involving townhouses, except upon a favorable or conditionally

favorable report from the Planning Commission. Prior to issuing a favorable report, the Planning Commission shall seek the advice and recommendations of the planning staff, and shall determine that the proposed townhouses are designed in such a manner as to be in harmony with the character of the surrounding neighborhood. Where conditions are attached by the Planning Commission, they shall be included as part of the building permit. If Special Exception is involved, the Board of Adjustment shall not grant such exception except with the conditions attached by the Planning Commission, but the Board may add to these conditions, conditions of its own in granting approval.

2. It is the intent of this ordinance that townhouses in areas where they are or may be permitted:

- (1) May be appropriately intermingled with types of housing;
- (2) Shall not form long, unbroken lines of row housing;
- (3) Shall constitute grouping making efficient, economical, comfortable, and convenient use of land and open space and serving the public purposes of zoning by means alternative to conventional arrangements of yards and building areas.

3. In line with the general considerations above, the following site plan and design criteria are established:

- (1) In groups of townhouses, no two contiguous townhouses shall share the same front line or roof line. The minimum offset for each townhouse shall be three (3) feet, not less than three (3) nor more than eight (8) townhouses shall be contiguous.
- (2) Minimum width for the portion of the lot on which a townhouse is to be constructed shall be 18 feet.
- (3) Minimum lot area shall be 2,000 square feet.
- (4) No portion of a townhouse or accessory structure in or related to one townhouse complex shall be closer than 20 feet to any portion of a townhouse or accessory structure related to another townhouse complex or to any building outside the townhouse areas.
- (5) Each townhouse shall be constructed on its own lot. Townhouses constructed in condominium developments may be excepted from this requirement by the Planning Commission.
- (6) No side yard shall be required except at the unattached ends of a townhouse complex in which case the minimum width shall be ten feet. Minimum depth of front yard shall be 20 feet.
- (7) Each townhouse shall have on its own land area containing not less than four hundred square feet, reasonably secluded from view from streets or from neighboring property. In condominium townhouse developments not subdivided into individual lots, one yard containing not less than four hundred square feet, reasonably secluded from view from streets or from neighboring property, shall be provided contiguous to, and for the private use of the occupants of each dwelling unit.
- (8) Off-street parking shall be provided at the rate of two spaces per townhouse. Insofar as practicable, off-street parking facilities shall be grouped in bays, whether adjacent to streets or in the interior of blocks. No off-street parking space shall be more than 100 feet by the most direct pedestrian route from a door of the dwelling unit it is intended to serve.

(9) In townhouse developments with a total area greater than 5 acres at least 20 percent of the total area shall be devoted to common open space, exclusive of parking areas of accessory buildings. Such common open areas may include recreational facilities.

In addition, the developer of a townhouse development or home owners' association created by the developer, by recorded covenants and restrictions shall preserve for the owners and occupants of the development such lands set aside for open areas, parks or recreational use and the common off-street parking spaces established for the development.

(10) Story and building height requirements shall be in accordance with those specified for the district in which the townhouse is located.

5.238. Height of Buildings

All heights permitted in and regulated by the provisions for an R-1, Residential Districts.

5.239. Minimum Standards for Manufactured Homes Placed in Residential Districts

The intent of this section is to insure that manufactured homes placed in residential districts will resemble site-built homes. The Board of Zoning Adjustment may require other conditions and safeguards it deems appropriate to insure the intent of the Zoning Ordinance.

1. Homes shall be set on permanent masonry foundation along the exterior perimeter.
2. Wheels, tongue, and axles shall be removed.
3. Roofing materials shall be similar to those used on surrounding homes.
4. Homes shall have pitched roofs (3:12 minimum) with overhang similar to surrounding homes (6" minimum).
5. Homes shall have exterior siding similar to surrounding homes. Steel siding not allowed.
6. Landings shall be required at each exterior entrance. Thirty square feet minimum at the front and 16 square feet at the side or rear. Landings shall be constructed with quality materials and be attractive in appearance. Plans for landings shall be submitted with application for variance.
7. The minimum width of the main portion of the structure shall be no less than 20 feet.
8. Homes shall be built to meet federal manufactured housing standards.
9. Every home shall be placed so that the apparent entrance or front faces or parallels the principal street frontage.
10. Manufactured homes shall be no more than four model years old when installed.
11. The owner of the property shall place the following language on the recorded plat and on all deeds conveying the property: **“THE EUFAULA BOARD OF ZONING ADJUSTMENT HAS GRANTED A VARIANCE FOR THE PLACEMENT OF A MANUFACTURED HOME ON THIS LOT. THE VARIANCE IS PERSONAL AND IS NOT TRANSFERABLE. ANY SUBSEQUENT OWNERS OF THE LOT MUST APPLY FOR AND RECEIVE A VARIANCE BEFORE THE HOME IS OCCUPIED. THE HOME SHALL NOT BE USED FOR RENTAL PURPOSES”**.

5.24. R-3, High Density Residential

5.241. Statement of Intent

The intent of the R-3, High Density Residential District is to promote an opportunity for various living environment by providing land for high density residential uses appropriate to the environmental character of the Eufaula area, and including provisions for those non-residential uses considered compatible with the character of the residential district itself and providing essential community services for residents of the community.

5.242. Uses Permitted

1. All uses in and regulated by the provisions for an R-2, Medium Density Residential District.
2. Townhouses as regulated in Section 5.237, but not subject to the review of the Planning Commission and the issuance of a special exception by the Zoning Board of Adjustment.
3. Multi-family structures.

5.243. Uses Permitted on Appeal

1. All uses permitted on appeal in an R-2 Medium Density Residential District.
2. Rooming, tourist and boarding houses provided that the floor area for such proposed use shall not exceed 75% of the total floor area of the residence.
3. Home occupations only in accordance with Article 6.24.
4. Day Care Home, subject to the requirements of Section 6.6.
5. Manufactured homes, subject to requirements of Section 5.239.

5.244. Standards for Uses Permitted on Appeal in R-3, Residential District

1. All uses permitted on appeal in an R-3 Residential District shall be in compliance with the intent of the district regulations as expressed in Section 5.241.
2. Uses permitted on appeal in an R-3 Residential District shall conform to the standards for uses permitted on appeal as specified in Section 5.234 for R-2 District.
3. All uses permitted in appeal must meet the general criteria as established in Section 8.512.
4. Nonresidential uses shall conform to the off-street parking requirements as set forth in Section 6.22.

5.245. Uses Prohibited

1. Commercial and industrial uses not specifically permitted.

5.246. Required Lot Area, Lot Width, Yards and Building Area:

Dwellings and other structures shall be located so as to comply with the following requirements:

Minimum required lot area:

Single family dwelling:	9,000 sq. ft.
Two family dwelling:	12,000 sq. ft.
Each additional unit:	2,000 sq. ft.

If access to community sewage system is not available, and a larger minimum area is required to meet the percolation standards for the Barbour County Board of Health, Board of Health minimums shall prevail.

Minimum required corner lot width at the building line:

Single family residence:	75 ft.
Two and multi-family residences:	95 ft.
Minimum required inside lot width at the building line:	
Single family dwellings:	60 ft.
Two and multi-family residences:	80 ft.
Minimum required corner lot yard width from all streets:	30 ft.
Minimum required depth of front yard:	30 ft.
Minimum total side yards:	17 ft.
Minimum one side yard:	7 ft.
Minimum required rear yard:	35 ft.
Maximum total building area of total lot area:	40 %
Accessory structures: rear and side yard:	3 ft.

5.247. Height of Buildings

All heights permitted in and regulated by the provisions for an R-2, Medium Density Residential District.

5.25. R-4, High Density Residential

5.251. Statement of Intent

The intent of the R-4, High Density Residential District is to provide an expanded choice of residential areas for the residents of the City of Eufaula by providing land for high density residential uses and including provisions for those nonresidential uses considered compatible with the character of the residential district itself and providing essential community services for residents of the community.

5.252. Uses Permitted

All uses in and regulated by the provisions for an R-3, Medium Density Residential District.

5.253. Uses Permitted on Appeal

1. All uses permitted on appeal in an R-3, Medium Density Residential District.
2. Rooming, tourist and boarding houses provided that the floor area for such proposed use shall not exceed 75% of the total floor area of the residence.
3. Home occupations only in accordance with Article 6.24.
4. Day Care Home, subject to the requirements of Section 6.6.

5.254. Standards for Uses Permitted on Appeal in R-4, Residential District

1. All uses permitted on appeal in an R-4 Residential District shall be in compliance with the intent of the district regulations as expressed in Section 5.251.
2. Uses permitted on appeal in an R-4 Residential District shall conform to the standards for uses permitted on appeal as specified in Section 5.244 for R-3 District.
3. All uses permitted on appeal must meet the general criteria established in Section 8.512.

5.255. Uses Prohibited

Residential and industrial uses not specifically permitted.

5.256. Required Lot Area, Lot Width, Yards and Building Area

Minimum required lot area:

Single family dwellings:	7,200 sq. ft.
Two-family dwellings:	10,000 sq. ft.
Each additional unit:	2,000 sq. ft.

If access to community sewage system is not available and a larger minimum area is required to meet the percolation standards for the Barbour County Board of Health, Board of Health minimums shall prevail.

Minimum required corner lot width at the building line:

Single family residence	75 ft.
Two and multi-family residences	95 ft.

Minimum required inside lot width at the building line:

Single family dwellings	60 ft.
Two and multifamily dwellings	80 ft.

Minimum required corner lot yard width from all streets 30 ft.

Minimum required depth of front yard 30 ft.

Minimum total side yards 17 ft.

Minimum one-side yard 7 ft.

Minimum required rear yard 35 ft.

Maximum total building area of total lot area 40 %

Accessory structures: rear and side yard 3 ft.

5.257. Height of Building

All heights permitted in and regulated by the provisions for an R-3 Residential District.

5.26. MHR. MOBILE HOME

5.261. State of Intent

It is the intent of this district to allow for the placement of mobile homes defined in Section 11.24 of the Zoning Ordinance, on single-family lots in subdivisions established solely for the purpose of home ownership.

5.262. Uses Permitted

1. Single-family mobile homes.
2. Support services necessary to service the needs of the residents of the MHR District.
3. Accessory uses and structures.
4. Recreational facilities.
5. Any permitted use or use permitted on appeal in the R-1 District and subject to the district requirements thereof.

5.263. Uses Permitted on Appeal in the MHR District

1. Public utilities.
2. Semi-public buildings and uses.
3. Home occupations only in accordance with Article 6.24.
4. Day Care Home, subject to the requirements of Section 6.6.

5.264. Standards for Uses Permitted on Appeal in the MHR District

1. All uses permitted on appeal in the MHR District shall be in compliance with the intent of the District regulations as expressed in Section 5.261.
2. All uses permitted on appeal in an MHR District shall conform to the standards for uses permitted on appeal as expressed in Section 5.224.
3. Uses permitted on appeal in the MHR District shall conform to the standards set forth in Section 8.512.

5.265. Uses Prohibited

Dwellings and other structures shall be so located so as to comply with the following requirements:

Minimum lot area:	9,375 sq. ft.
Minimum lot width:	75 ft.
Minimum lot depth:	125 ft.
Minimum size yard:	
Interior side:	
Between mobile home and side lot line:	12 ft.
Between mobile home and any permanent building:	25 ft.
Street side on corner lots:	20 ft.
Minimum rear yard:	25 ft.
Minimum building area:	45 %
Accessory structures: rear and side yard:	3 ft.
Off street parking requirements:	Two (2) per mobile home lots.

5.267. Height of Buildings/Screening Requirements/Site Requirements

1. All heights as regulated in Section 5.227 of this Zoning ordinance.
2. Each mobile home dwelling shall remove the wheels and towing or tongue and hitch.
3. No later than thirty (30) days after placement of a mobile home dwelling on a site, the area between the bottom of the unit and the ground shall be enclosed by "screening or skirting" on all sides and ends. An inspection will be conducted no later than thirty-two (32) days after the placement of the dwelling on the site for compliance to these regulations.

5.27. MH, Mobile Home Park

5.271. Statement of Intent

It is the intent of this district to allow for mobile home parks to be established where mobile home spaces can be rented, for compensation. The purpose of the district is to provide an expanded choice of housing opportunities for all socioeconomic classes.

5.272. Permitted Uses

1. Mobile home parks as regulated in these district requirements.
2. Accessory structures providing services only to residents of the mobile home park.
3. Recreation facilities.
4. Any permitted use or use permitted on appeal in the R-1 District and subject to the district requirements thereof.

5.273. Uses Permitted on Appeal in the MH District

1. Public utilities.
2. Semi-public buildings and uses.
3. Home occupations only in accordance with Article 6.24
4. Day Care Home, subject to the requirements of Section 6.24.

5.274. Standards for Uses Permitted on Appeal

1. All uses permitted on appeal in the MH District shall be in compliance with the intent of the District Regulations as expressed in Section 5.271.
2. All uses permitted on appeal in the MH District shall conform to the standards for uses permitted on appeal in Section 5.224.
3. All uses permitted on appeal in the MH District shall conform to the standards set forth in Section 8.512.

5.275. Uses Prohibited

Residential, commercial, and industrial uses not specifically permitted.

5.276. Development Requirements

The following minimum standards shall apply to all mobile home parks in the City of Eufaula:

- a. All parks shall have at least ten (10) mobile homes whose minimum size shall be forty (40) by ninety (90) feet; and no lot may be occupied until at least five (5) lots within the park have been fully developed.
- b. All internal park streets shall have a minimum twenty (20) feet wide all-weather surface. At least one off-street parking space shall be provided on each lot.
- c. All sewage disposal facilities and water supply facilities must be approved by the State Health Department. Sewerage facilities and water supply shall be provided on each lot.
- d. All plumbing within any mobile home park shall comply with the "Plumbing Installation Standards for Mobile Homes and Travel Trailers and Parks," set forth by the Southern Standard Plumbing Code 1985 updated version Edition, as amended.
- e. All mobile home parks shall have front, rear, and side yards of at least twenty (20) feet wide which are planted and maintained.
- f. All mobile home parks shall have either a five (5) pound dry chemical extinguisher or pressure water hose protected from freezing within one hundred (100) feet of each mobile home.
- g. Each lot in any mobile home park shall be provided with two (2) thirty (30) gallon refuse cans having vermin-proof lids, so secured that animals cannot spill them. Regular garbage and refuse pick-up service must be provided at each mobile home park.
- h. Each mobile home park shall have its lots situated such that no mobile home is located within twenty-five (25) feet of any other mobile home or permanent structure; except that an individual storage shed or locker having not over one hundred square feet floor space may be provided on any lot.

i. Each mobile home park provided ten (10) or more mobile home spaces must provide suitable playground area of not less than three hundred (300) square feet for each mobile home space.

j. Electrical corrections to each lot shall conform to the specifications of the National Electrical Code, as amended. At least one street or night light shall be provided for each ten (10) lots or a fraction thereof.

k. Site Considerations:

1. The selection of the site of a mobile home park shall take into account the proximity of environmental factors which exist or may result from the change in land use with regard to the health or safety or comfort of persons who are to reside on the park or persons using land in the vicinity of the site.

2. No site shall be used for a mobile home park which is subject to flood or undue pooling of water or air pollution by smoke, dust, or fumes.

l. Site Plans:

1. A copy of the plans for the proposed mobile home park or extension or replat of an existing mobile home park shall be submitted to the Planning Commission for review and approval before construction begins.

2. The plan shall show in detail the proposed construction or changes in land use with regard to the site boundary, street and lot layout, location, and designation of buildings and other facilities including detailed plans for water supply, sewerage and sewage disposal, garbage disposal and area drainage.

3. In approving a mobile home park site, there may be imposed such reasonable requirements as to screening and other features of the development as are deemed necessary to protect property and prevent objectionable conditions.

m. Rules:

1. Each mobile home park shall operate under supervision of a manager who shall be reasonably available at all times.

2. The mobile home park management shall furnish and hand to each responsible mobile home resident at the first occupancy a printed set of rules for residents of the park, with any changes thereto included, which shall include a statement of when and where the park manager will be available, and the rules in regard to storage, garbage, trash, animals, pets, water and sewer frost proofing, and other matters having a bearing on area sanitation, health and safety.

3. A copy of the rules referred to in 2 and all changes thereto shall be presented to the State Health Department for review and record.

n. Permits Prescribed:

1. The State Health Department shall issue permits to persons who operate mobile home parks which comply with the above regulations.

2. It shall be unlawful for any person to engage in the operation of a mobile home park, without having applied for and obtained from the State Health Officer a permit based on satisfactory compliance with the foregoing specifications and regulations.

3. The said permit shall be issued without charge to the permittee; shall be nontransferable with respect to persons or establishments; shall be kept posted in a conspicuous place in the establishment; shall automatically expire on the date upon which state and county privilege licenses expire annually; and shall be renewable during the sixty (60) days prior to that date each year.

4. The issuance of a permit for the operation of a mobile home park, for a year, for part of a year, or for operation at a new location, shall be conditioned upon compliance with regulations as determined by one or more inspections.

5. The said permit may be revoked because of the violation of any of the provisions of this ordinance; provided that the holder of said permit shall have the legal right of appeal.

5.28. C-1, Neighborhood Commercial

5.281. Statement of Intent

The intent of C-1 Neighborhood Commercial District is to provide limited retail convenience goods and personal services establishments in residential neighborhoods and to encourage the concentration of these uses in one location for each residential neighborhood rather than stripped or scattered commercial developments occupied by individual shops throughout a neighborhood.

5.282. Uses Permitted

Retail convenience, personal service and business establishments primarily oriented to the sale of goods and provision of personal services to residents of a neighborhood. Such uses may include but are not limited to, barber shops, beauty shops, branch banks, cafes, drugstores, fruit markets, dry cleaning and laundry pick-up, flower shops, convenience grocery stores, ice cream stores, self-service stores, appliance stores. Uses permitted or permitted on appeal in the R-3 Residential District and subject to the requirements thereof. Public facilities to include hospitals, schools, etc. and their customary accessory uses, semi-public facilities.

5.283. Uses Permitted on Appeal

Filling stations, not to include repair. Outdoor advertising signs and structures provided, however, that such use is not located within 100 feet of a residential district.

5.284. Standards for Uses Permitted on Appeal in a C-1 District

1. All special uses permitted in the C-1 District should be in compliance with the intent of this district as expressed in Section 5.281.
2. All uses permitted must conform to standards set forth in Section 8.512.
3. Uses permitted on appeal for uses not directly related to the neighborhood orientation of commercial personal service or business uses are not classified as providing essential facilities and services for such uses shall not be issued by the Board of Adjustment unless it can be proved to the satisfaction of the Board of Adjustment that the use would not be detrimental to the preservation of the commercial district.

5.285. Uses Prohibited

Major auto repair; auto wrecking and wrecker junk stores; laundry and dry cleaning plants; light or heavy manufacturing; and wholesale businesses and lounges, taverns, bars or beer

parlors; cash advance/pay day loan, title pawn establishments shall be prohibited from the C-1 Neighborhood Commercial District. (*Amended 10/6/14; Ord. 2014-10*)

5.286. Required Lot Area, Lot Width, Yards and Setbacks

All buildings hereafter constructed for uses listed in this subsection shall be so located as to comply with the following minimum requirements:

Minimum Required Lot Area: It is the intent of this subsection that lots of sufficient size be used for the business or service permitted, provided however, that such use shall have adequate space for normal operations plus required space for off-street parking and loading, and yard requirements.

If access to community sewerage system is not available, and a larger minimum area is required to meet the percolation standards for the Barbour County Board of Health, Board of Health minimums shall prevail.

Minimum required lot width at building line:	50 ft.
Minimum required front yard:	35 ft.
Minimum required rear yard:	25 ft.
Minimum required side yard on corner lots intersecting streets:	25 ft.
on interior lots:	15 ft.

On a lot adjoining a residential district along a side lot line, yard shall be required on the side adjacent to the residential district. Such side yard shall double the minimum side yard requirements of that adjacent residential district.

Gasoline pump and pump islands shall be set back a minimum of fifteen (15) feet from all street rights-of-way.

5.287. Height of Buildings

No building shall exceed two and one-half (2 1/2) stories or thirty-five (35) feet in height except that public and semipublic buildings may have a height not to exceed three (3) stories or forty-five (45) feet.

Towers, spirals, domes and other such structures not designed for human occupancy may exceed the height limitations provided that such structures comply with the provisions of all other pertinent codes and ordinances, and provided further, that such structures are located no closer to the nearest property line than the distance equal to their height plus ten (10) feet.

5.29. C-2, General Commercial

5.291. Statement of Intent

The intent of this district is to provide opportunities for retail convenience, personal services and business establishments, primarily oriented to the sale of goods and the provision of personal services with only limited production and process activities and not requiring extensive wholesale, or storage areas or generating excessive noise, smoke, vibrations, odors or other objectionable emissions which would be detrimental to adjoining land uses. Such districts are community-oriented commercial areas, rather than neighborhood-oriented and as such require location and proximity to major transportation routes.

5.292. Uses Permitted

Retail convenience, personal services and business establishments; motels, theaters, offices and banks, restaurants, lounges, taverns, bars, or beer parlors, filling stations, new and used automobile sales and service, funeral homes, parks and public recreational facilities, parking lots, package stores; cash advance/pay day loan, title pawn establishments as regulated in Section 6.26. Any use permitted or permitted on appeal in an R-3 District and subject to the requirements thereto; government buildings and offices to include, but not be limited to jails, police stations, and fire stations; any use permitted or permitted on appeal in the C-1 District and subject to the requirements thereto. (*Amended 10/6/14; Ord. 2014-10*)

5.293. Uses Permitted on Appeal

1. Light warehousing or storage related to retail trades and services.
2. Manufacturing incidental to a retail trade business where articles are sold on the premises.
3. Animal clinics
4. Hospitals
5. Kennels

5.294. Standards for Uses Permitted on Appeal in a C-2 District

1. All uses permitted on appeal in a C-2 District shall comply with those standards specified for uses permitted on appeal in a C-1 District.
2. All uses permitted on appeal in the C-2 District shall be in compliance with the intent of the District regulations as expressed in Section 5.291.
3. Uses permitted on appeal shall conform to the standards set forth in Section 8.512.

5.295. Uses Prohibited

Any use not specifically intended by the Statement of Intent, Section 5.291.

5.296. Required Lot Area, Lot Width, Yards and Setbacks

Buildings hereafter constructed for uses permitted in this subsection shall be so located as to comply with the following requirements:

Minimum required lot width at building line:	50 ft.
Minimum required front yard:	40 ft.
Minimum required rear yard:	25 ft.
Minimum required side yard on corner lots:	
along intersection streets:	25 ft.
along interior lots:	15 ft.
Maximum Building area:	40 %

If access to community sewage system is not available, and a larger minimum area is required to meet the percolation standards for the Barbour County Board of Health minimums shall prevail.

Off-street parking spaces: As regulated in Section 6.22.

Gasoline pumps and pump islands shall be set back a minimum of fifteen (15) feet from all streets and rights-of-way.

Residential uses shall comply with the lot area requirements of the R-4 Residential District.

5.297. Height of Buildings

All heights permitted in and regulated by the provisions for a C-1 Neighborhood Commercial District.

5.30. C-3, CBD-Central Business District

5.301. Statement of Intent

It is the intent of this district to provide for business and office activities, and high intensity retail sales and activities in the downtown area of Eufaula. This district is the central business district for the community. In a pedestrian-oriented, historically significant district; such uses as the following are promoted:

- Major stores offering comparison shopping
- Specialty stores
- Business services
- Banks and other financial institutions
- Offices
- Theaters
- Hotels and Restaurants
- Governmental Buildings

The use of the land is intensive and this intensity of use is one of the main determinants of the Downtown vitality. For a residential flair, second story loft-type apartments are a permitted use.

5.302. Uses Permitted

1. Amusement Services, such as:

- Amusement Arcades
- Bowling Alleys
- Theaters

2. Cultural and Community Facilities, such as:

- Art Galleries
- Libraries
- Museum
- YMCA
- Philanthropic institutions and clubs

3. Institutional Services, such as:

- Nursery schools
- Training Schools

4. Uses permitted or permitted on appeal in the R-3 Residential District and subject to the requirements thereto.

5. Personal Services, such as:

- Beauty and Barber Shops
- Funeral Homes
- Laundry Pick-up
- Laundromats

Restaurants (fully enclosed, no drive-in facilities), but any such permitted restaurant shall not be permitted to sell or to serve for consumption alcoholic beverages past 12 midnight nor shall any permitted restaurant be allowed to permit alcoholic beverages to be consumed or possessed on the premises past 12 midnight.

Studios

Service Station

6. Professional Services, such as:

Banks

Business and Professional offices

Government Offices to include but not limited to jails, police and fire stations

7. Retail Uses, such as:

Antique Shops

Art Supply Stores

Appliance Stores

Bakeries

Book Stores

Clothing Stores

Craft Shops

Department Stores

Delicatessens

Drug Stores

Fabric Stores

Hardware Stores

Floor Covering

Flower Shops

Garden Supply Shops

Office Supply Stores

Paint Stores

Pawn Shops

Pet Shops

Shoe Stores

Toy Stores

Other stores of a similar nature designed for the retailing of merchandise and services to the general public

8. Any use permitted or permitted on appeal in the C-2 (General Commercial) District.

5.303. Uses Permitted on Appeal

Light warehousing or storage related to retail trade services.

Lounges, taverns, bars, or beer parlors.

5.304. Standards for Uses Permitted on Appeal in the C-3 District

1. All uses permitted on appeal in the C-3 District shall comply with those standards specified for uses permitted on appeal in the C-1 District.

2. All uses permitted on appeal must conform to the standards and criteria of Section 8.512.

3. All uses permitted on appeal in the C-3 District shall be in compliance with the intent of the District as expressed in Section 5.301.

5.305. Uses Prohibited

Stockyard; live animal or live poultry sales; coal yard, lumber yard or lumber mill; auto wrecking; gasoline, oil, or alcohol storage above the ground in excess of five hundred gallons; grist or flour mills; ice plant; junk; scrap paper; rag storage or bailing; stone or monument works, lounges, taverns, bars or beer parlors. Any use prohibited in M-1 District.

5.306. Required Lot Area, Lot Width, Yards, and Setbacks

Buildings hereafter constructed for uses permitted in this subsection shall be so located as to comply with the following requirements:

Minimum Required Lot Area: None. Lots must be of sufficient size to be used for any business or service permitted herein.

Off-street parking requirements: As regulated in Section 6.22 of this Zoning Ordinance.

Residential uses shall conform to the following requirements:

Minimum lot area per family: 500 square feet for multi-family dwellings or for dwelling units erected in conjunction with other uses.

5.307. Height of Buildings

All heights permitted in and regulated by the provisions of the C-1 District.

5.31. C-4, Highway Commercial

5.311. Statement of Intent

It is the intent of this District to provide for an opportunity for the location of retail sales and businesses along the main federal highways within the city. The placement of such businesses will be conducive to the tourist trade.

5.312. Uses Permitted

Any retail, business or other use as permitted or permitted on appeal in the C-3 District, Section 5.30.

Stores intended primarily for the tourist trade.

Motels, Hotels

Filling Stations

Indoor repair of automobiles

Signs as regulated in Section 6.21

Lounges, taverns, bars or beer parlors

Any use permitted or permitted on appeal in the R-3 District and subject to requirements thereof.

5.313. Uses Permitted on Appeal

Large dry cleaners and laundries, manufacturing incidental to a retail trade business where articles are sold on the premises.

Animal clinics, hospital, or kennels.

5.314. Uses Prohibited

Uses prohibited in the C-3 Districts. Cash advance/pay day loan, title pawn establishments. *(Amended 10/6/14; Ord. 2014-10)*

5.315. Standards for uses Permitted on Appeal in the C-4 District

1. All uses permitted on appeal in the C-4 District shall be in compliance with the intent of the District regulations as expressed in Section 5.311.
2. All uses permitted on appeal comply with those standards specified for uses permitted on appeal in the C-1 District.
3. Uses permitted on appeal shall conform to the standards set forth in Section 8.512.

5.316. Required Lot Area, Lot Width, Yards, and Setbacks

Buildings hereafter constructed for uses permitted in this subsection shall be so located as to comply with the following requirements:

Minimum Lot Area: It is the intent of this subsection that lots of sufficient size be used for the business or service permitted, provided, however, that such lots shall have adequate space for normal operations plus required off street parking, loading, and yard requirements.

Minimum required front yard:	35 ft.
Minimum required rear yard:	20 ft.
Minimum required side yard:	10 ft.
Maximum Building Area:	30%

Off-street parking requirements: As regulated in Section 6.22

5.317. Height of Building

No building shall exceed two and one-half (2 1/2) stories or thirty-five (35) feet, except that public and semi-public buildings may have a height not to exceed three (3) stories or forty-five (45) feet.

All other heights permitted in and regulated by the provisions for the C-1 District.

5.32. M-1, Light Industrial

5.321. Statement of Intent

It is the intent of this district to provide an opportunity for industrial uses in selected areas. It shall be the purpose of such districts to provide employment to the region and contribute to the tax base of the City. Development within such districts shall be compatible with surrounding or abutting residential districts with the suitable open spaces and landscaping, limited external effects and low intensity of development.

5.322. Uses Permitted

1. Any use permitted or permitted on appeal in the R-3 Residential District and subject to the requirements of said district as specified in Section 5.24 and the C-4 Commercial District, and subject to the regulations of Section 5.31.
2. Contractor's or construction equipment dealer's yard,
3. Grain and feed storage.
4. Heating fuel or building material storage or wholesaling; provided that the materials shall not be extracted or processed on the premises.
5. Lumber yard

6. Radio or television towers
7. Truck terminal
8. Railroad installation
9. Warehouse
10. Bottling plant or dairy
11. Assembly of parts for production of finished equipment
12. Manufacturing, fabricating, processing, or assembling uses which do not create any danger to health or safety in surrounding areas, which do not create any objectionable noise, vibration, smoke, dust, heat, odor, glare, such as the following:
 - boats
 - clothing
 - food
 - pharmaceuticals
 - furniture and wood products
 - glass products
 - hand tools
 - ice
 - musical instruments
 - office machines
 - plastic products, not including processing or raw materials
 - plating of silverware or utensils
 - signs
 - sporting goods
 - other similar uses
13. Accessory structures and uses

5.323. Uses Permitted on Appeal

1. Any manufacturing or business use not specifically prohibited.

5.324. Standards for Uses Permitted on Appeal

1. All uses permitted on appeal in the M-1 District shall be in compliance with the intent of the District regulations as expressed in Section 5.321.
2. Uses permitted on appeal shall conform with the standards established in Section 8.512.
3. All uses permitted on appeal shall be in compliance with Section 5.336.

5.325. Uses Prohibited

Abattoir; slaughterhouse; stockyard; bag cleaning; boiler and tank works; central mixing plant for cement mortar, plaster, or paving materials; curing, tanning, or storage of hides; distillation of bones, coal, tar, or wood; fat rendering; forge plant; gasoline storage above the ground in excess of five hundred gallons manufacturing of acetylene; acid, alcohol, ammonia, bleaching powder, brick, pottery, terra-cotta or tile, concrete blocks, candles, disinfectant, dye-stuffs, fertilizers, illuminating or heating gas including storage of same; paint, turpentine, varnish, soap, and tar products; wool pulling or scouring, junk yards; cotton waste reclaiming; and similar types of plants.

5.326. Required Lot Area, Lot Width, Yards, and Setbacks

It is the intent of the ordinance that lots of sufficient size be used for any industrial, service, or business use to provide adequate parking and loading space in addition to the space required for the other normal operation of the enterprise.

Minimum Yard Size: None specified except where existing establishments (other than residential) are setback, any new structure shall be setback not less than the average of the setbacks of the existing establishments within one hundred feet each side thereof.

Maximum Building Area: 40% of lot area

Minimum Side Yard: None specified, excepting a lot, adjoining its side lot line (is) another lot which is in a residential district, there shall be a side yard not less than ten (10) feet wide.

Rear Yard: None specified, except where a rear lot adjoins a residential district, there shall be a rear yard not less than twenty-five (25) feet.

Off-Street Parking. One space for every two employees of the industry on the largest shift. Also, space necessary to store overnight all vehicles incidental to the operation of the industry or use, or as regulated in Section 6.227.

Off-Street Loading and Unloading: Shall provide adequate space for loading and unloading all vehicles or trucks incidental to the operation or industry as regulation in Section 6.23.

5.327. Height of Buildings

Fifty (50) feet or four (4) stories.

5.33. M-2, Heavy Industrial

5.331. Statement of Intent

In areas where industrial development has already occurred, Heavy Industrial Districts are established. It shall be the purpose of such districts to provide employment to the region and contribute to the tax base of the City. Development within such districts shall be encouraged through minimal environmental controls on use and intensity of use, such controls to be limited to accepted standards for environmental conditions and aesthetic control along the perimeter of such districts when abutting residential districts.

5.332. Uses Permitted

1. Any uses permitted or permitted on appeal in the M-1 District (light industrial).
2. Public Utilities
3. Jails and correctional institutions
4. Police and fire stations
5. Business service establishments
6. Equipment rental agencies
7. Motor vehicle service stations
8. Heavy vehicular repair facilities
9. Quarrying, processing, storage, and/or sale of stone and related products
10. Research or testing laboratories

11. Scrap processing, auto wrecking, and junk yards
12. Warehousing and distribution, including wholesale business
13. Communication transmitting and receiving facilities
14. Heliport
15. Principal supply utilities
16. Sewerage facilities
17. Accessory uses and structures
18. Signs as regulated in Section 6.21

5.333. Uses Permitted on Appeal

1. Any industrial, service or commercial use, except those which in the opinion of the building inspector would cause noise, smoke, gas, vibration, fume, dust or other objectionable conditions which would effect a considerable portion of the City.
2. Tanks for storage of gasoline, liquefied petroleum gas, oil, and other inflammable liquids or gases. Such tanks shall not be less than 1,000 feet from any residential districts.
3. Commercial convenience and other business uses associated with the industrial character of the district or providing services necessary for the operation of such industrial uses.

5.334. Standards for Uses Permitted on Appeal

1. All uses permitted on appeal in the M-2 District shall be in compliance with the intent of the District as expressed in Section 5.331.
2. Uses permitted on appeal shall conform with the standards set forth in Section 8.512.
3. Uses permitted on appeal shall be in compliance with environmental conditions as set forth in Section 5.336.

5.335. Uses Prohibited

Uses prohibited in the M-1 District unless the Planning Commission and the City Council rule otherwise.

5.336. Required Lot Area, Lot Width, and Yard-Environmental Conditions

1. It is the intent of this operation that lots of sufficient size be provided for any permitted or conditional use, provided however, that such shall have adequate space for normal operations, plus required space for yards, off-street parking, loading and unloading.

Maximum total building are shall not exceed 35% of total lot area.

2. If access to community sewage system is not available, a larger minimum area is required to meet the percolation standards for the Barbour County Board of Health, which shall prevail.
3. Emit no smoke unless approval has been obtained from the Alabama Air Pollution Control Commission.
4. Discharge into the air no dust or other particles, matter created by an Industrial operation or emanating from any products stored prior to or subsequent to processing unless permission has been secured from the Alabama Air Pollution Control Commission.

5. Produce no heat or glare humanly perceptible at or beyond the lot boundaries.
6. Utilize all lighting in a manner which produces no glare on public streets or on any other parcel.
7. Produce no physical vibrations humanly perceptible at or beyond the lot boundaries.
8. Produce no electromagnetic radiation or radioactive emissions injuries to human beings or animals or vegetation of any intensity that interferes with the lawful use of any property.
9. Do not engage in the production or storage of any material designed for use as an explosive, nor in the use of such materials in production.
10. Do not discharge into any stream system or public sewer system any industrial waste, trailing, or unusable byproducts which will cause serious water pollution, overburden the existing public facilities, or be harmful in any way to the normal sewage treatment process.
11. The required lot area, lot width, yard size and setbacks which pertain to the M-1 District shall apply in the M-2 District.
12. The required off-street parking and off-set loading and unloading as regulated in Sections 6.22 and 6.23 respectfully.

5.34. PH-1, Professional Office/Historic District

5.341. Statement of Intent

The intent of this district is to provide for the protection of areas located near the Historic Central Business District that generally contain older or historic structures utilized for various residential or professional/commercial uses. It is intended that this district will encourage the preservation of residential uses which are in standard condition as well as provide for the development of professional offices which complement the adjoining residential uses.

5.342. Uses Permitted

1. Uses permitted in the R-3 District and subject to the requirements thereof.
2. Business, professional offices and personal services such as:
 - Accountants offices
 - Doctors and dentists offices
 - Insurance offices
 - Real estate offices
 - Banks and branch offices
 - Government offices
3. Civic organizations
4. Cultural and Community facilities.
5. Outpatient clinics

5.343. Uses Permitted on Appeal

1. Personal services such as:
 - Beauty and Barber Shops
 - Restaurants (fully enclosed, no drive-in)

2. Retail uses such as:
Antique shops, art supply, appliance stores
Bakeries, book stores
Clothing stores, craft shops
Fabric stores, flower shops

5.344. Standards for Uses Permitted on Appeal

1. All uses permitted on appeal should be in compliance with the intent of this district as expressed in Section 5.341.
2. All uses permitted on appeal must conform to the standards set forth in Section 8.512

5.345. Uses Prohibited

Uses prohibited in the C-3 District:

5.346. Required Lot Size, Area, Width and Setbacks:

Minimum Lot Width:	80 ft.
Front Lot Line:	20 ft.
Front Building Line:	40 ft.
Minimum Front Yard:	35 ft.
Minimum Side Yard:	25 ft.
Minimum Rear Yard:	25 ft.

Off-street parking requirements as regulated in Section 6.22 of the Zoning ordinance.

5.347. Height of Buildings

5.35. E-1, Estate District

5.351. Statement of Intent

The intent of this district is to provide for the preservation of larger sized residential tracts in the outlying areas of the City; and to provide for the preservation of prime agricultural/forestry lands and the natural and scenic areas needed for outdoor recreation and open space.

5.352. Uses Permitted

1. Single-family dwellings.
2. Customary accessory building or structures.
3. General and specialized farming, forestry, and agricultural uses, except commercial feed lots and poultry farms.
4. Roadside stands for the sale of goods and produce raised on the farm premises.
5. Riding stables and academies.
6. Parks, playgrounds, general recreation facilities, golf courses and club houses.
7. Churches and other places of worship,
8. Schools offering general education courses.
9. Hospital, sanitariums, nursing homes, and orphanages.

5.353. Uses Permitted on Appeal

1. Clubs operated and owned by non-profit corporations.
2. Home Occupations.
3. Resorts and campgrounds
4. Airports
5. Accessory structure or uses customarily incidental in any of the aforementioned special exceptions.
6. Day Care Home, subject to the requirement of Section 6.6.

5.355. Uses Prohibited

All such uses not specifically stated.

5.356. Required Lot Size, Width and Setbacks

Minimum Lot Size:	1 acre
Front Lot Width at Building Line:	150 feet
Front Yard Requirement:	40 feet
Rear Yard Requirement:	40 feet
Side Yard Requirement:	25 feet

5.357. Height of Buildings

See heights as permitted in the R-1 District.

All heights as permitted in the C-1 Districts.

5.36. R-2A, Medium Density Residential

5.361. Statement of Intent

The intent of this district is to promote a quality living environment through the provision of land for various medium density residential uses to include single-family residential, townhouse developments, patio home developments, and duplex, and quadri-plex developments on medium-density lots appropriate to the environmental character of the residential district; and to provide essential community facilities and services for such residential uses. Residential uses permitted in this district must be served with municipal water and sewer facilities and have access to major collector roadways.

5.362. Uses Permitted

1. Single-family dwellings on lots served by municipal water and sewer.
2. Two-family dwellings on lots served by municipal water and sewer.
3. Townhouse developments on lots served by municipal water and sewer and subject to the provisions of Section 5.237, however under this zone designation approval of the Board of Adjustment is not a requirement, but the plan shall be approved by the Planning Commission as to compliance with all zoning regulations.
4. Duplex and quadri-plex developments on lots served by municipal water and sewer. The plan for this type development shall be approved by the Planning Commission as to compliance with all zoning regulations.

5. Churches, schools, and public facilities.
6. On-site signs only in accordance with the provisions specified in Section 6.71.

5.363. Uses Permitted on Appeal

1. Public parks and recreational facilities, public utilities.
2. Associated accessory structures or uses customarily incidental to the use permitted on appeal.
3. Home occupations, only in accordance with the provisions specified in Article 6.24.
4. Day Care Homes, subject to the requirements of Section 6.6.

5.364. Standards for Uses Permitted on Appeal in R-2A Districts

1. All uses permitted on appeal in an R-2A District shall be in compliance with the intent of these district regulations as expressed in Section 5.361.
2. Uses permitted on appeal not directly related to the promotion of a quality living environment and not classified as providing essential facilities and services for residences of this district shall not be issued by the Board of Adjustment.
3. Non-residential uses permitted on appeal defined as compatible in an R-2A Residential District shall have property access to an identified collector street.
4. The use of exterior lighting systems for uses permitted on appeal in an R-2A Residential District shall be allowable only on approval of the Board of Adjustment. Such systems, if approved, must be so designed as to reflect the light away from adjoining premises and streets.
5. Hours of operation for non-residential uses permitted on appeal in an R-2A Residential District may be limited by the Board of Adjustment to further promote the intent of this ordinance.
6. All uses permitted on appeal must meet the general criteria established in Section 8.512 of the Zoning Ordinance.
7. Non-residential uses shall conform to the off-street parking requirements as set forth in Section 6.22.

5.365. Uses Prohibited

1. Mobile Homes.
2. Commercial and industrial uses not specifically permitted.
3. Multi-family (five or more) dwellings or any dwelling more than two stories tall from the ground level.

5.366. Required Lot Area, Lot Width, Yards and Building Areas

Dwellings and other structures shall be located so as to comply with the following requirements:

Minimum required lot area:	
Single-family dwellings:	10,000 sq. ft.
Two-family dwellings:	12,000 sq. ft.
Three-family dwellings:	14,000 sq. ft.

Four-family dwellings:	16,000 sq. ft.
Each additional unit:	2,000 sq. ft.

Residential uses permitted in this district must be served with municipal water and sewer facilities.

Minimum required corner lot width at building line:	
Single-family house:	75 ft.
Two-family dwellings:	95 ft.
Three or Four-family dwellings:	105 ft.
Minimum required inside lot width at building line:	
Single-family dwellings:	60 ft.
Two residences:	80 ft.
Three or Four residences:	100 ft.
Minimum corner lot yard width from all streets:	30 ft.
Minimum required depth of front yard:	30 ft.
Minimum required width of each side yard:	
for single family residences:	10 ft.
Minimum required width of each side yard for:	
two, three, or four family residences:	12 ft.
Minimum required rear yard:	35 ft.
Maximum total building area of total lot:	35 percent
Accessory structures: rear and side yard:	3 ft.

CONCEPTUAL PLAN

Prior to granting any R-2A zoning, the property owner must submit to the Planning Commission a conceptual plan acceptable to the Commission detailing types and number of dwellings to be constructed in relationship to proposed streets. Only that parcel of land included within the submitted conceptual plan may be zoned R2-A. Once the conceptual plan is approved, no changes may be made in the layout of streets, types and number of dwellings and the locations of said dwellings in relationship to the streets without reapproval of the Planning Commission.

5.367. Height of Buildings

All heights permitted in and regulated by the provisions for an R-1 Residential District for single family dwellings.

ARTICLE SIX
GENERAL AND SUPPLEMENTAL DISTRICT REGULATIONS

Section 6.1. General Provisions

6.11. Future Street Lines and Points of Access

6.111. Future Street Lines: On any lot which, at the time of adoption of this Ordinance or at the time this Ordinance is changed by amendment hereafter, may be reduced in area by widening a public street to a future street line as indicated on the duly adopted "Major Street Plan", or as same may be hereafter amended, the minimum required yards, the minimum required lot area, the minimum required lot width, and the maximum building area shall be measured by considering the future street lines as the lot line of such lot.

6.112. Points of Access: In order to promote the safety of the motorist and pedestrian and to minimize traffic congestion and conflict by reducing the points of contact, the following Regulations shall apply:

- a. A point of access, i.e., a drive or other opening for vehicles onto a street shall not exceed thirty (30) feet in width.
- b. There shall be no more than two (2) points of access to any one (1) public street on a lot of any width. Lots less than one hundred (100) feet in width shall have no more than one (1) point of access to any one (1) Public street.
- c. No point of access shall be allowed within fifteen (15) feet of the right-of-way of any public street intersection.
- d. The area existing between the street and an interior parking space or driveway parallel to the street shall have a curb at least six (6) inches in height and four (4) inches in width separating that parking area from the sidewalk and located in such a manner to prevent encroachment of vehicles onto the public right-of-way including the sidewalk.
- e. No curbs on city streets or rights-of-way shall be cut or altered without written approval of the Building Inspector.

6.12. Rear Yard Abuts a Public Street

When the rear yard of a lot abuts a public street, all buildings or structures in that rear yard shall observe the same setback from the street line or property line as required for adjacent properties which front on that street. In addition, any structure located within twenty-five (25) feet of that setback line shall observe the side yard requirements of the adjoining properties fronting on that street.

6.13. Obstruction to Vision at Street Intersections Prohibited

In all districts, on a corner lot within the area formed by the center lines of streets or street and railroad, at a distance of seventy-five (75) feet from such intersection, there shall be no obstruction to vision between a height of two and one-half (2 1/2) feet and a height of ten (10) feet above the average grade of each street or railroad at the center line thereof. The requirements of this subsection shall not be deemed to prohibit any necessary retaining wall.

The Board of Adjustment may reduce this requirement where safety conditions will not be impaired.

6.14. Rear Dwelling Prohibited

No accessory structure or building in the rear of the principle building on the same lot may be used for residential purposes unless upon written approval of the Board of Adjustment. In Residential Districts there shall be only one main principal building per lot.

6.15. Location of Accessory Buildings and Structures

Accessory buildings and structures may be erected on the Lot, however, such buildings and structures shall be located so is to comply with the following requirements and only pursuant to a building permit issued for that purpose.

6.151. No accessory building or structure shall be erected in any required front or side yard and shall not occupy more than thirty (30) percent of any required rear yard. Accessory buildings and structures shall be at least three (3) feet from all lot lines and from any other building on the same lot.

6.152. No accessory building or structure not an integral part of the principal building shall be located within sixty (60) feet from the front lot line.

6.153. In the case of a corner lot adjoined in the rear by a lot facing the side street, the accessory building or structure shall be located in such a manner as to conform with the front and side yard requirements of the adjoining lot.

6.154. Swimming and wading pools with a depth of one foot or more in any portion of the pool, and not located within a permanently and completely walled structure, shall be placed no closer than ten (10) feet to any property line and shall be completely fenced off from the ground, up to a height of at least five feet. Gates and fences shall be so constructed and of such materials so as to prevent the entry of children into the pool area. Gates shall be provided with adequate locking devices and shall be locked at all times when pool is not in use.

6.155. In the event that the Board of Adjustments is requested to waive the requirements of Section 6.15, the Board may impose reasonable requirements as to screening and other features of the development as are deemed necessary to protect property and minimize objectionable conditions.

6.16. Access to Public Streets

6.161. In residential, commercial and industrial districts, every use, building or structure established after the effective date of this ordinance shall be on a lot or parcel which adjoins a public street or highway or a street on a subdivision plat approved by the Planning Commission.

6.162. All structures shall be located on lots as to provide safe and convenient access for servicing, fire protection and required off-street parking.

6.17. Fences, Walls and Hedges

Notwithstanding other provisions of this ordinance, fences, walls, and hedges may be permitted in any required yards, or along the edge of any yard, provided that on corner lots no fence, wall or hedge along the sides or front edge of any front yard shall be over three and one-half (3 1/2) feet in height.

6.18. Essential Community Facilities and Services

6.181. Nothing in this ordinance shall prohibit the provision of essential services such as gas, electric or telephone, provided the installation of such facility or service does not violate any other applicable provision of this ordinance. However, nothing in this subsection shall be construed to permit the erection, construction, or enlargement of any building, tower or substation or maintenance depot for provision of an essential community facility or service except as otherwise permitted in this Ordinance.

Section 6.2. Supplemental Provisions

6.21. Off-Street Parking Requirements

In all districts, there shall be provided at the time any building, structure, or use is established, enlarged, or increased in capacity, off-street parking spaces for motor vehicles with the requirements herein specified. Such off-street parking spaces shall be maintained and shall not be encroached upon by structures or other uses so long as the principle building, structure, or use remains, unless an equivalent number of such spaces are provided elsewhere in conformance with this ordinance.

6.211. Plans

Plans and specifications showing required off-street parking spaces, including the means of access and interior circulation, shall be submitted to the Zoning Administrator for review at the time of application for a building permit for the erection or enlargement of a building.

6.212. Location of off-Street Parking Areas

With the exception of uses in the Central Business District, required off-street parking facilities shall be located on the same lot as the principle building and within three hundred (300) feet thereof except that this distance shall not exceed one hundred fifty (150) feet for single-family and two-family dwellings. The distance specified shall be measured from the nearest point of the parking facility to the nearest point of the building or use that such facility is required to serve.

6.213. Parking in Residential Districts

Parking of motor vehicles in residential districts shall be limited to passenger vehicles, and not more than one commercial vehicle of the light delivery type, not to exceed three-fourths (3/4) ton shall be permitted per dwelling unit. The parking of any other type of commercial vehicle, except for those parked on school or church property, is prohibited in a residential zone.

6.214. Off-Street Parking Area Design

Each off-street parking space for automobiles shall be not less than nine (9) feet by eighteen (18) feet in area, exclusive of access drives or aisles, and shall be of usable shape and condition.

There shall be provided a minimum access drive of ten (10) feet in width, and where a turning radius is necessary, it will be of such an arc as to reasonably allow an unobstructed flow of vehicles.

Parking aisles for automobiles shall be of sufficient width to allow a minimum turning movement in and out of parking space. The minimum width of such aisles shall be:

- a. For ninety (90) degree or perpendicular parking, the aisle shall not be less than twenty-two (22) feet in width.
- b. For sixty (60) degree parking, the aisle shall not be less than eighteen (18) feet.
- c. For forty-five (45) degree parking, the aisle shall not be less than thirteen (13) feet in width.
- d. For parallel parking, the aisle shall not be less than twelve (12) feet in width.

All off-street parking spaces shall not be closer than five (5) feet to any property line except where a wall, fence, or compact planting strip exists as a parking barrier along the property line.

All off-street parking areas shall be drained so as to prevent drainage to abutting properties and shall be constructed of materials which will have a dust-free surface resistance to erosion.

Any lighting fixtures used to illuminate any off-street parking area shall be so arranged as to reflect the light away from any adjoining premises and streets.

Any off-street parking area providing space for five (5) or more vehicles shall be effectively screened on any side which adjoins or faces property adjoining a residential lot or institution, by a wall, fence or compact planting not less than four (4) feet in height. Plantings shall be maintained in good condition and not encroach on adjoining property.

All off-street parking areas that make it necessary for vehicles to back out directly into a public road are prohibited, except that this prohibition shall not apply to off-street parking areas of one or two-family dwellings.

6.215 Collective Parking

Requirements for the provision of parking facilities with respect to two or more property uses of the same or different types may be satisfied if the permanent allocation of the requisite number of spaces designated is not less than the sum of individual requirements.

6.216. Determining Requirements

For the purpose of determining requirements the following units of measure shall apply:

- (1). Floor area: In the case where floor area is the unit for determining the required number of off-street parking spaces, said unit shall mean the gross floor area, except that such-floor area need not include any area used for parking within the principal building and need not include any area used for incidental service storage, installations of mechanical equipment, penthouse housing ventilators and heating systems, and similar uses.

(2). Places of Assembly: In stadiums, sports arenas, churches, and other places of assembly, in which those in attendance occupy benches, pews, or other similar seating facilities, each eighteen (18) inches of such seating facilities shall be counted as one (1) seat. In cases where a place of assembly has both fixed seats and open assembly area, requirements shall be computed separately for each type and added together.

(3). Fractions: When units of measurement determining the number of required parking spaces result in requirement of a fraction space, any fraction up to and including one-half (1/2) shall be disregarded and fractions over one-half (1/2) shall require one (1) parking space.

6.217. Schedule of Off-Street Parking Spaces

The minimum required off-street parking spaces shall be as set forth in the following Schedule of Off-Street Parking Spaces. Where a use is not specifically mentioned, the parking requirements of a similar or related use shall apply:

USE	PARKING SPACE REQUIREMENTS
Automobile or Machinery Sales & Service Garages	One (1) space for each two hundred (200) square feet of showroom floor area plus one (1) space for each employee.
Banks, Business, and Professional offices	One (1) space for each two hundred (200) square feet of gross floor area.
Barber Shops and Beauty Parlors	One and one-half spaces for each one employee.
Bowling Alleys	Seven (7) spaces for each alley.
Churches, Auditoriums, Stadiums, Sports Arenas, Theaters, Dance Halls, Assembly Halls other than Schools	One (1) space for each three (3) seats plus one for each employee
Dwelling Unit	Two (2) spaces for each family or dwelling unit.
Funeral Homes and Mortuaries	Four (4) spaces for each parlor or one (1) space for fifty (50) square feet of floor area plus one (1) space for each fleet vehicle.
Furniture, Appliance Stores, Household Equipment and furniture Repair Shops	One (1) space for each two hundred (200) square feet of floor area, plus one space for each employee exclusive of fleet vehicles.
Hospitals	One (1) space for each bed including bassinets plus one (1) space for each employee, exclusive of emergency or fleet vehicles.
Hotels. Motels, Lodging	One (1) space for living unit plus one (1)

Houses, Boarding Homes Automobile, Service Stations	space for each employee. One (1) space for each four hundred (400) square feet of floor area plus one per pump, plus one for each employee.
Manufacturing, Fabricating, Processing, and Bottling Plants, Research and Testing Laboratories	One (1) space for each one employee on maximum shift.
Medical and Dental Clinics	One (1) space for each two hundred (200) square feet of floor area plus one (1) space for each employee.
Restaurants, Beer Parlors,	One (1) space for each three (3) patrons of maximum seating capacity plus one (1) space for each one employee.
Self-service Laundry or Dry Cleaning Stores	One (1) space for each two (2) washing and/or dry cleaning machines.
Elementary and Junior High Schools, Private and Public	One (1) space for each employee normally engaged in or about the building or grounds plus one (1) space for each thirty (30) students enrolled.
Senior High School and Institutions of Higher Learning, Private or Public	One (1) space for each employee in or about the building or grounds plus one (1) space for each ten (10) students.
Supermarket, self-service and Discount Stores	One (1) space for each two hundred (200) square feet floor area plus one for each employee.
Wholesale Establishments and Warehouses	One (1) space for each four hundred (400) square feet of floor area plus one for each employee.

6.218. Exception

The parking requirements for all uses proposed on a lot shall be cumulative, unless the City Engineer's Office shall find that the parking requirements of a particular mix of land uses occur at different hours, so that a particular parking area can be advantageously used during non-conflicting hours by the other uses. In such an event, the required parking space for such particular land use may be reduced by the City Engineer's Office to the maximum number of spaces required for the remaining uses requiring simultaneous parking.

Section 6.22. Off-street Loading and Unloading Requirements

In connection with every building, structure, or use hereafter erected, except single and two-family dwelling unit structures, which customarily receive or distribute material or merchandise by vehicle, there shall be provided on the same lot with such buildings, off-street loading and unloading space.

6.221. Plans

Plans and specifications showing required loading and unloading spaces including the means of ingress and egress and interior circulation shall be submitted to the Zoning Administrator for review at the time of application for a Building Permit.

6.222. Off-Street Loading Area Design

Each off-street loading and unloading space shall not be less than twelve (12) feet in width and fifty-five (55) feet in length with not less than fifteen (15) feet in height clearance.

Any loading-unloading space shall not be closer than fifty (50) feet to any lot located in any residential district unless wholly within a completely enclosed building or unless screened on all sides by a wall, fence or compact planting not less than six (6) feet in height.

All off-street loading and unloading facilities that make it necessary to back out directly into a public road shall be prohibited.

6.223. Off-Street Loading Area Space Requirements

In the case of mixed uses on one lot or parcel, the total requirements for off-street loading-unloading facilities shall be the sum of the various uses computed separately.

All retail sales facilities having up to five thousand (5,000) square feet of gross floor area shall be provided with at least one (1) off-street loading-unloading space, and for every additional twenty thousand (20,000) square feet of gross floor space, or fraction thereof, one (1) additional loading-unloading space.

All industrial and wholesale commercial land uses shall provide one (1) loading space for each ten thousand (10,000) square feet of floor space, with a minimum of not less than two (2) loading spaces.

Section 6.23. Home Occupations

A home occupation shall be clearly incidental and secondary to the use of the dwelling unit for residential purposes. The following additional conditions shall be observed:

- (a). Such home occupation shall be carried on by the owner-occupant within the dwelling or within a building accessory thereto and not occupy more than 25% of the gross floor area.
- (b). Shall be permitted on appeal in the FAR, R-1, R-2, R-3, R-4, MHR, and the MH Districts,
- (c). No article shall be sold nor any service offered which must be utilized and/or performed on the property outside of the internal confines, excluding open areas, of the home. There shall be no exterior storage of materials or equipment.
- (d). No nuisances shall be generated by heat, glare, noise, smoke, vibration, noxious fumes, odors, vapors, gases, or other matter at any time.
- (e). It is the intent of this Section to limit home occupations in Residential Districts to unobtrusive, innocuous and inoffensive activities that have no effect or impact upon the physical and natural amenities of the neighborhood or affect the resident's ability to maintain

the quiet enjoyment of their homes, property, streets, and neighborhood, and which do not materially increase the amount of traffic and/or parking in the general neighborhood.

(f). A home occupation shall not include a beauty parlor, furniture upholstery, office for any professional, or office in a building.

Section 6.24. Storage of Materials

The location or storage of abandoned, discarded, unused, unusable, or inoperative vehicles, appliances, furniture, equipment, or material shall be regulated as follows:

6.241. On any lot in the Forestry-Agriculture-Residential District, Residential Districts or Commercial District, the owner or tenant, but not for hire or for business, shall locate and store such materials within a completely enclosed building.

On any lot in any commercial or industrial district, the owner or tenant, whether or not for hire or for business, shall locate and store such materials within a completely enclosed building or within an area surrounded by a solid, unpierced fence or wall at least seven (7) feet in height and not less in height than the materials located or stored therein, and not closer to the lot lines than the minimum yard requirements for buildings permitted in said districts.

6.242 Storage of Commercial and Recreation Vehicles and Trailers

Commercial and recreational vehicles and trailers shall not be parked or stored on any lot occupied by a dwelling or any lot in a Residential District except in accordance with the following requirements:

1. Travel trailers, motor homes, boats and hauling trailers (other than commercial trailers) shall be permitted if parked or stored behind the front yard building line.
2. No more than one commercial vehicle per dwelling shall be permitted; and in no case shall a commercial vehicle used for hauling explosives, gasoline or liquefied petroleum products be permitted.
3. Nothing in this Ordinance shall permit the storage or parking of any vehicle or non-permanent structure within the required front yard of any lot within a residential district, except that the parking of a passenger vehicle on a driveway located on private property shall not be prohibited.

Section 6.25 Performance Standards

6.251. No lot, building, or structure in any district shall be used in any manner so as to create any dangerous, injurious, noxious or otherwise objectionable element or condition so as to adversely affect the surrounding area or adjoining premises. Uses in all districts, where permitted, shall comply with the following performance requirements:

(a). Noise: Noise which is objectionable due to volume, frequency, or beat shall be muffled or otherwise controlled so that there is no production of sound discernible at lot lines in excess of the average intensity of street and traffic noise at the lot lines. Air raid sirens and related apparatus used solely for public purposes are exempt from this requirement.

- (b). Vibration: No vibration shall be permitted which is discernible without instruments on any adjoining lot or property,
- (c). Smoke: Smoke shall not be emitted unless such emission is in accordance with the requirement of the Alabama Air Pollution Control Commission.
- (d). Odor: No malodorous gas or matter shall be permitted which is offensive, or as to produce a public nuisance or hazard on any adjoining lot or property.
- (e). Air Pollution: No pollution of air by fly-ash, dust, vapors, or other substances shall be permitted which is harmful to health, animals, vegetation, or other property, or which can cause excessive soiling.
- (f). Glare: No direct or reflected glare shall be permitted which is visible from any property or from any public street, road or highway.
- (g). Erosion: No erosion, by either wind or water, shall be permitted which will carry objectionable substances onto neighboring properties, lakes, ponds, rivers, or streams.

6.252. Enforcement

- a. Where, in the opinion of the Zoning Administrator, a proposed use may not conform to these performance standards, the applicant shall submit a description of the machinery, process, and products and specifications for the mechanisms and techniques to be used in meeting the performance standards.
- b. The Zoning Administrator may refer the application to one or more expert consultants qualified to advise as to whether a proposed use will conform to the performance standards.
- c. The costs of such services shall be borne by the applicant, and a copy of any report shall be furnished by the applicant to the Zoning Administrator.

SECTION 6.26. Cash Advance/Payday Loan and Title Pawn Establishments

Because of their very nature, cash advance/payday loan and title pawn establishments are recognized, particularly when several are concentrated in a given area, to have deleterious effects upon adjacent areas. Therefore, not more than two (2) such uses shall be permitted within 2500 feet of each other. Nor shall any such use be located closer than 500 feet of any residential district, school, park or church. (*Amended 10/6/14; Ord. 2014-10*)

Section 6.3. Special Use Permits

The formulation and enactment of this Ordinance is based upon the division of the City of Eufaula into districts in each of which are permitted specified uses which are mutually compatible. In addition to such permitted compatible uses, however, there are certain other uses which may be necessary or desirable to allow in certain locations in certain districts, but because of their actual or potential impact on neighboring uses or public facilities, need to be carefully regulated with respect to their location for the protection of the City of Eufaula. Such uses, on account of their peculiar locational need or the nature of the service offered, may have to be established in a district in which they cannot be reasonably allowed as a permitted use.

6.31. Authority to Grant Permits

The Board of Adjustments as hereinafter provided shall have the authority to grant special use permits, subject to such conditions of design, operation, and safeguards as they may determine for all special uses specified in the various district provisions of this Ordinance.

6.32. Application and Fee

Application for any special use permit permissible under the provisions of this Ordinance shall be made to the Board of Adjustments through the Zoning Administrator by filing an official special use permit application form; submitting required data, exhibits, and information; and depositing the required fee as established by resolution of the City Council, except that no fee shall be required of any governmental body or agency. No part of such fee shall be returnable to the applicant.

6.33. Data, Exhibits, and Information Required in Application

An application for a special use permit shall contain the applicant's name and address in full, a statement that the applicant is the owner involved or is acting on the owner's behalf, the address of the property involved; the names and addresses of all adjacent property owners as determined from tax records at the County Courthouse; an accurate survey drawing of the subject property showing the existing and proposed location of all structures thereon, the types thereof and their uses; and a statement of supporting data, exhibits, information, and evidence regarding the required findings set forth in this ordinance.

6.34. Public Hearings

The Board of Adjustments shall hold a public hearing upon any application for a special use permit, notice of which shall be given two consecutive weeks prior to the hearing by posting in a manner similar to that used for posting ordinances in the City of Eufaula.

The Board of Adjustments shall also notify property owners adjacent to the subject property in writing by first class mail at least one week prior to the date of the public hearing.

6.35. Required Standards and Findings for Making Determinations

The Board of Adjustments shall review the particular circumstances and facts of each proposed use in terms of the following standards and required findings, and shall find and record adequate data, information, and evidence showing that such a use on the proposed site, lot, or parcel meets the following requirements:

- (a). Will be harmonious with and in accordance with the general objectives, intent, and purposes of this ordinance.
- (b). Will be designed, constructed, operated, maintained, and managed so as to be harmonious and appropriate in appearance with existing or intended character of the general area.
- (c). Will be served adequately by essential public facilities and services, such as: highways, streets, police and fire protection, drainage structures, refuse disposal, or that the persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately any such service.
- (d). Will not be hazardous or disturbing to existing or future neighboring uses.
- (e). Will not create excessive additional requirements at public cost for public facilities and services.

6.36. Determination and Imposition of Conditions

If the facts in the case do not establish beyond a reasonable doubt that the findings and standards set forth in this ordinance will apply to the proposed use, the Board of Adjustments shall not grant a special use permit. When granting a special use permit, the Board of Adjustments shall require such conditions of use as it deems necessary to protect the best interest of the City and the surrounding property, and to achieve the objectives of this ordinance.

6.37. Approval, Grant or Permit

Upon holding a public hearing and the finds that the requirements of this subsection of this ordinance have or have not been satisfactorily met by the applicant, the Board of Adjustments shall within thirty (30) days approve or disapprove the application, If approved, a Special Use Permit shall be issued to the applicant. The Board of Adjustments shall forward a copy of the permit to the applicant, City Clerk, Zoning Administrator, and City Council.

Failure to act within thirty (30) days shall be interpreted as approval by default and notice of such occurrence shall be forwarded to the Council with their copy of the permit. The Board of Adjustments may extend the review period for not more than fifteen (15) days, by giving written notice to the applicant, for the purposes of collecting additional data which will be significant in reaching a final decision.

The Administrator shall not issue a building permit until he has received a copy of the Special Use Permit approved by the Board of Adjustment.

6.38. Voiding of Special Use Permits

Any special use permit granted under this ordinance shall become null and void and fees forfeited unless construction and/or use is commenced within 180 days (6 months) and completed within 545 days (18 months) of the date of issuance.

A violation of a requirement, condition, or safeguard shall be considered a violation of this ordinance and grounds for the Board of Adjustments to terminate and cancel such conditional use permit.

Section 6.4. Reserved

Section 6.5. Site Plan Review and Approval

6.51. Statement of Intent:

It is recognized by this Ordinance that there is a value to the public in establishing safe and convenient traffic movement to higher density sites, both within the site and in relation to access streets; that there is value in encouraging a harmonious relationship of buildings and uses both within a site and in relation to adjacent uses; further that there are benefits to the public in conserving natural resources, Toward this end, by this Ordinance, the council shall request site plan review by the Planning Commission for all land development that can be expected to have a significant impact on natural resources, traffic patterns, and on adjacent land usage.

For purpose of this Ordinance land development shall mean:

- (a). The improvement of one or more contiguous lots, tracts or parcels of land for any purpose involving a group of two or more uses whose combined lot coverage exceeds 25%, or the division or allocation of land between or among two or more common areas; or

(b). A division of land into lots for the purpose of conveying such lots singularly or in groups to any person, partnership or corporation for the purpose of the erection of buildings by such person, partnership, or corporation.

6.52. Buildings, Structures, and Uses Requiring Site Plan.

The Building Inspector shall not issue a Building Permit for the construction of the buildings and structures identified in this section unless a detailed site plan has been reviewed by the Planning Commission.

6.53. Application and Fee for Site Plan Review

Any person may file a request for a site plan review by the Planning Commission by filing with the Zoning Administrator the completed application upon the forms furnished by the Zoning Administrator and payment of a fee established by resolution of the City Council, As an integral part of said application, the applicant shall file at least four (4) copies of a site plan.

6.54. Planning Commission Review of Site Plan

Upon receipt of such application from the Zoning Administrator, the Planning Commission shall undertake a study of the same and shall, within thirty (30) days, approve or disapprove such site plan, advising the applicant in writing of the recommendation, including any changes or modifications in the proposed site plan as are needed to achieve conformity to the standards specified in this ordinance.

6.55. Required Data for Detailed Site Plan

6.551. Every site plan submitted to the Planning Commission shall be in accordance with the following requirements:

(a). The site plan shall be of a scale not to be greater than one (1) inch equals twenty (20) feet nor less than one (1) inch equals two hundred (200) feet, and of such accuracy that the Planning Commission can readily interpret the site plan, and shall include more than one drawing where required for clarity.

(b). The property shall be identified by lot lines and location, including dimensions, angles and size, and correlated with the legal description of said property. Such plan shall further include the name and address of the property owner, developer, and designer, and set forth the source of title by book and page number of the Probate Recording.

(c). The site plan shall show the scale; north point; boundary dimensions; topography (at least two foot contour intervals); and natural features, such as-wood, lots, streams, rivers, lakes, drains, and similar features.

(d). The site plan shall show existing manmade features, such as buildings; structures; high tension towers; pipe lines; and existing utilities, such as water and sewer lines, excavations, bridges, culverts, drains, and easements, and shall identify adjacent properties and their existing uses.

(e). The site plan shall show the location, proposed finished floor and grade line elevations, size of proposed principle and accessory buildings, their relation one to another and to any existing structures on the site, the height of all buildings, and square footage of floor space. Site plans for residential development shall include a density schedule showing the number of

dwelling units per net acre, including a dwelling schedule showing the unit type and number of each unit type.

(f). The site plan shall show the proposed streets, driveways, sidewalks and other vehicular and pedestrian circulation features within and adjacent to the site; also, the location, size and number of parking spaces in the off-street parking area, and the identification of service lanes and service parking. The site plan shall include tree survey, clearing plan, and protective measures including erosion and sediment control, wetlands protection, and tree preservation and mitigation where applicable.

(g). The site plan shall show the proposed location, use and size of open spaces; and the location of any landscaping, fences or walls on the site. Any proposed alterations to the topography and other natural features shall be indicated. The site plan shall further show any proposed location of connections to existing utilities and proposed extensions thereof.

A vicinity map shall be submitted showing the location of the site in relation to the surrounding street system.

6.56. Standards for Site Plan Review

In reviewing the site plan, the Planning Commission shall ascertain whether the proposed site plan is consistent with all regulations of this Ordinance, Further, in consideration of each site plan, the Planning Commission shall find that provisions of this section of this Ordinance, as well as the provisions of the zoning district in which said building structures and uses as indicated in the proposed site plan, have been satisfactorily demonstrated and met by the application.

6.57. Approval of Site Plan

Upon the Planning Commission's recommended approval of a site plan, the applicant shall file with the City Clerk one (1) copy thereof. The City Clerk shall transmit the site plan and any comments of the Planning Commission to the council at the next regular meeting. Upon approval the Clerk shall transmit to the Zoning Administrator one (1) copy with the Clerk's certificate affixed thereto, certifying that said approved site plan conforms to the provisions of this ordinance as determined. If the site plan is disapproved by the Planning Commission, notification of such disapproval shall be given to the applicant within ten (10) days after such Planning Commission action. The Building Inspector shall not issue a Building Permit until he has received a certified-approved site plan.

6.58. Expiration of Site Plan Certificate

The site plan certificate shall expire, and be of no effect, three hundred sixty-five (365) days after the date of issuance thereof, unless within such time the Zoning Administrator has issued a building permit. Work shall have actually commenced within one hundred eighty (180) days after the issuance of the building permit or prior to the expiration of the site plan certificate.

6.59. Amendment, Revision of Site Plan

A site plan, and site plan certificate, issued thereon, may be amended upon the request of the applicant, Such amendment shall be made upon application and in accordance with the procedure provided in Section 6.5 of this Ordinance.

Section 6.6. Day Care Homes

A child care facility which is a family home and which receives not more than six (6) children for care during the day, A Day Care Home shall be clearly incidental and secondary to the use of the dwelling unit for residential purposes. The following additional conditions shall be observed by Day Care Homes as a condition to their continued existence as a Use Permitted on Appeal:

- (a). Such Day Care Homes shall be carried on by the owner/occupant within the dwelling, or on the immediate dwelling premises, or within a building accessory thereto and shall not occupy more than 25% of the gross floor area of the dwelling.
- (b). No nuisance shall be generated by heat, glass, smoke, noise, vibration, noxious fumes, odors, vapors, gases, or other matter at any time,
- (c). The Board of Zoning Adjustments may require if it deems conditions warrant that outdoor play areas be sufficiently screened with materials and/or shrubs so as to protect the integrity of the neighborhood.
- (d). Any such permitted use shall always be conditional on said Day Care Home being operated in compliance with these provisions. Any aggrieved party shall have the right to bring to the attention of the Board of Zoning Adjustments a lack of compliance with these conditions, In the event the Board of Zoning Adjustments deems any Day Care Home operator to be in continued violation of these conditions, said permitted use on appeal shall be revoked.
- (e). Be permitted by Special Exception in the FAR, R-1, R-2, R-3, R-4, MHR, MH, and E-1 Districts subject to the requirements of Section 8.512.

Section 1: Article Six

Section 6.61. Minimum Landscape Requirement

1). Purpose

Purpose of this section is to protect and enhance the ecological and aesthetic environments of the City of Eufaula; provide for shade and natural cooling; control the erosion of soil and storm water runoff; buffer noise and glare; and contribute to property values.

2). Application of Section

a. Landscaping requirements as set forth in the Tree and Landscape Ordinance shall become applicable to each building site or zone at the time an application for a building permit is made for a commercial, industrial, or multifamily apartment development located on any site in any zone; and to each of these zones or sites where the developer undertakes a commercial, industrial, or multifamily apartment existing development renovation or addition that increases the square footage by 50% or more. In the event that 50% or more by square footage of a single or multiple building classified as a commercial, industrial, or multifamily apartment is torn down and replaced with another singular or attached building then this requirement would also apply, regardless of the square footage contained in the replacement structure(s). In the event that multiple buildings exist in the form of singular and/or attached buildings on a given development parcel, then this requirement shall have application if the square footage of any singular or multiple building is increased by 50% or more.

b. The City of Eufaula may provide design assistance to assist in the design phases of the project and to review initial and final plans.

c. All landscape installation must be completed before the development is opened to the public. The Horticulturist and/or Tree Commission will give compliance or noncompliance to landscaped areas before opening. The Horticulturist and/or Tree Commission will give a decision of compliance or noncompliance within seven (7) working days of the formal request for approval. In the event the development is scheduled to be opened between June first and October thirty-first in any given year, and provided that the developer has complied with the performance and guarantee Section of 6.61 (5i), then the developer will be entitled to a six month extension.

d. Any new paving or asphalt parking lot project or expansion of existing parking lot within the city limits located in any commercial, industrial and multi-family zone or site must be in compliance with the landscaping parking lot requirements in Section 5b of this ordinance.

3). Definitions

a. Desirable Tree - A tree that has DBH of at least 12 inches and is an oak, hickory, sycamore, pine, yellow poplar, sweet gum, elm, hackberry or sugarberry, magnolia, cypress, or a newly planted tree on a development site.

b. Small Shade Tree - medium size tree of thirty (30) to forty (40) feet at mature height.

c. Large Shade Tree - Tree that, at mature height, has the genetic characteristics to exceed fifty (50) feet in height.

d. DBH - diameter at breast height - This is the measurement of the width of trunk 4 1/2 feet above existing grade. To find the diameter of trees with a measuring tape in inches, measure the circumference of the tree at 4.5 feet above ground level and divide by Pi (3.14).

e. Drip Line - the circumference of the tree's natural unaltered canopy extended vertically to the ground.

f. Barrier - a physical structure limiting access to a protected area.

g. Public Tree - a tree located on city property or any tree owned by the City of Eufaula, Alabama. This includes city rights-of-way.

h. Caliper - This is the measurement of the width of the trunk 6" above existing grade.

i. Tree Credits - means of crediting existing trees that would have to be planted, if existing trees could not be saved and protected as stated in this ordinance.

j. Removing a tree - to relocate, cut down, kill through the use of herbicides, chemicals or other poisons, cut roots by trenching or grading too close to the tree base, or in any other manner destroy or cause to be destroyed, a tree as defined in this ordinance. Refer to citation procedure under Section 6.62, penalties and restitution section.

k. Damaged Tree - A tree that has a damaged root system, trunk or has been noted as a damaged tree by the Horticulturist and/or Tree Commission, but tree does not die within a three-week time period and does not appear to be weakened by the damage.

l. Multi-family Zones or Sites - Multi-family includes homes that have a roof over more than two families.

m. Critical Root Zone - The rooting area of a tree figured by allowing one (1) foot in radius of ground area on all sides of the tree for each one (1) inch of DBH.

n. Natural Area - Undisturbed areas of one-tenth (0.1) acre or more containing desirable, healthy native trees and vegetation.

o. Tree - A woody plant having the ability at maturity, to generally attain a height of thirty (30') foot or more.

p. "Damage to Tree" - Damage to tree(s) includes the cutting of roots; the compaction of roots; bark or trunk injury; the changing of grade around the tree(s) including piling of three or more inches of soil or dirt around the tree(s) dripline and/or lowering the grade around the dripline of the tree(s); spraying, pouring or applying chemical to the tree(s); improper pruning of the tree(s).

q. Stump - The part of the tree remaining above the ground after the main trunk has been cut down.

4). Landscape Plan Approval

A landscape plan shall be submitted for approval at the time that an application for a Building Permit is made on any land where the landscaping requirements of this Section are applicable. The landscape plan shall include:

- a. Date, scale, north arrow, title and name of owner.
- b. Approximate location of existing boundary lines and dimensions of building site.
- c. An accurate tree survey of the development parcel showing the location, species, and size of all trees twelve (12) inches and greater at DBH with a designation as to which trees are to be retained. The survey should show the number of all trees six- (6) inches and greater located in natural areas so designated by the developer.
- d. The approximate center line of existing water-course; the approximate location of significant drainage features; and the location and size of existing and proposed streets and alleys, existing and proposed utility easements on or adjacent to the building site, and existing and proposed sidewalks adjacent to streets.
- e. The location and size of proposed landscape areas, in square feet.
- f. The location, number, size and name of proposed landscape material.
- g. Statistics verifying that the minimum percentage of landscaping required under this Section will be met.
- h. An indication, using written or graphic information, of how the applicant plans to protect existing trees and other vegetation which are proposed to be retained from damage during construction.
- i. The proposed irrigation type and design, if required.

- j. Installation process for all landscape material.
- k. Certification that the landscape plan has been prepared or reviewed by one of the following: a registered landscape architect, professional engineer, architect, landscape designers, full time builder designer, a qualified nursery man, the County Agent, or any Governmental Agency with horticulture experience, and that it satisfies all purposes, objectives and requirements of this Section.
- l. Flagging and barrier system as covered in Section 5.(h).
- m. Permanent utility facility locations.
- n. Provide owner's signature on plan.
- o. Property owner shall be required to read and understand the "Tree Protection During Construction" booklet provided by the City of Eufaula Horticulture Department or Building Department at the time a plan for landscaping is approved. Any questions about the booklet can be addressed to the horticulturist and/or any Tree Commission member. The property owners' signature shall be required on a letter stating that the "Tree Protection During Construction" document has been read and is understood.

5). Landscaping Requirements:

a. Landscaping Percentage Requirements. Any building site meeting the requirements of this section shall be landscaped. Landscaping materials shall cover fifteen (15) percent of the total building site as determined first by calculating the square footage of the unimproved site, then subtracting therefrom the total square footage of the building area. At least 60% of the landscape requirements shall be located in the front set back defined as the area between the property line and the building wall(s) facing the public right-of-way.

To determine the number of shade trees required on any building lot, first add the length of all sides of the lot then divide the total by 30. If the result ends in a fraction, the result as expressed in numbers shall be rounded off to the next highest whole number to arrive at the total number of shade trees required. No less than one half, rounded to the next highest whole number, of the required trees shall be large shade trees.

With the exception of building sites where the developer increases the square footage of the building by fifty (50) percent or more, the developer/owner must reserve the first twenty (20) feet of the front yard setback requirement of the zoning district for a green space where at least one large shade tree shall be planted for every thirty feet of road frontage, with the exception of where primary power lines occur. In these areas, small shade trees are allowed.

Planted trees must have a 1 ½ - 2" caliper. All planted trees immediately become desirable trees. After the application of credits the City Horticulturist may waive any number of trees not required due to site characteristics. If waived, these trees shall then be donated to the City Horticulturist to be planted as public trees.

b. Parking lot landscaping shall be provided in parking lot use areas having uncovered parking at street level. Such landscaping shall be provided in such a manner as to break up the expanse of paving, facilitate the safe circulation of pedestrian and vehicular traffic, and provide shade

valuable for pedestrians and/or vehicles. A ratio of one large shade tree for every ten (10) parking spaces shall be required.

c. Site Visibility:

Landscape material shall not obstruct traffic visibility at intersections, parking lot interiors and driveway entrances between heights of three (3) and eight (8) feet above grade. Existing trees must be pruned so that they do not obstruct traffic visibility at intersections and driveway entrances.

d. Spacing:

Trees shall not be planted closer than 4.5 feet to curbs or barriers protecting trees. Large shade trees shall not be planted closer than thirty (30) feet of each other and small shade trees a minimum of ten (10) to a maximum of twenty (20) feet of each other where possible.

e. Installation:

All plant material shall be installed in a sound manner and in accordance with the landscape plan. This installation process shall be included on the landscape plan to be approved by the city horticulturist. No large shade trees shall be planted within twenty (20) feet of the centerline of primary utility lines.

f. Maintenance:

Landscaped areas shall be maintained by the owner or lessee of the property at all times. This includes prompt replacement of all dead or damaged landscape material to insure continued compliance with landscaping requirements. This also applies to rights-of-way or medians for developers who elect to take credits for landscaping requirements here.

g. Water Supply:

All landscape areas need to be readily accessible to an adequate water supply located on the development parcel. This may include one or more of the following: hose bibs, automatic or manual irrigation, and/or any other appropriate method of supplying water to the landscape areas.

h. Protection of Landscaped Areas:

Landscaped areas are to be protected by concrete curbs, wheel stops, continuous border plants of hedgerows, railroad ties or other suitable barriers and landscape areas shall be detailed on the landscape plan.

i. Performance Guarantee of Completion:

The owner shall be responsible for ensuring that either he or his designated builder provides all required greenspace to the lot. This may be accomplished by the full installation of all required improvements at the time that the certification of occupancy is approved by the Horticulturist. In lieu of requiring the completion of all improvements prior to opening (if opening is to occur between the dates of June 1st and October 31st), the Horticulturist and/or Tree Commission, may, at its discretion, accept from the owner or his designated builder a cash deposit or a letter of credit from a F.D.I.C. bank. The cash deposit or F.D.I.C. bank letter of credit for the construction and installation of improvements shall be in accordance with the preliminary plans approved by the Horticulturist and meet the following requirements:

A) Value of Bond. The Performance Bond shall be in an amount not less than one hundred twenty-five (125%) percent of the cost of the remaining improvement(s) identified on the landscape plan. The bond shall be payable to the City and shall be in an amount established by

the Horticulturist and/or by the Tree Commission as sufficient to cover the entire cost of all remaining improvements, as estimated by the applicant, reviewed and recommended by the landscape contractor and approved by the Horticulturist and/or Tree Commission.

B) Value of Cash deposit or F.D.I.C. Bank Letter of Credit. A cash or escrow deposit shall be in an amount not less than one hundred twenty five (125%) percent of the entire cost of all remaining improvements. Said full amount shall be estimated by the applicant, revised and recommended by the Landscape Contractor and approved by the Horticulturist and/or Tree Commission.

To Complete Work. If within six (6) months after filing the performance bond and establishing the case account or providing F.D.I.C bank letter of credit, the owner/builder has not completed all necessary improvements; or if, in the opinion of the Horticulturist and/or Tree Commission, the improvements have not been satisfactorily installed, the cash account or F.D.I.C. bank letter of credit shall be used by the City of Eufaula to complete the improvements in satisfactory fashion, or the City may take steps as may be necessary to require performance under the bond. Any funds remaining after all work has been satisfactorily completed will be returned to the owner or his designated builder.

The landscape contractor who estimated the cost of the work may be hired, if he is still willing to perform the work, to install the improvements as specified by the approved plans. As soon as feasible after the six-month time extension has expired, the landscape contractor, at the direction of the City, will begin improvements. In the event the landscape contractor who provided the work is not willing for any reason to install the improvements as specified by the approved plans for the amount of his original estimate, the City Horticulturist will then bid out the job. The landscape contractor will be paid from the bond fund.

6). Existing Tree Credits:

Credit will be given for the retention and protection of any existing trees that are a desirable species, have good form, and are in healthy condition. Credit will not be allowed if proper protection is not maintained throughout the construction process. These tree credits can go toward landscape requirements; however, the front setback must contain one desirable tree for every thirty (30) feet of frontage. If any existing tree for which credit is received dies or fails to thrive, the owner must replace the number of trees credited for which credit was given. Tree equivalents shall be credited as follows:

EXISTING TREE	NOT REQUIRED TO PLANT
DIAMETER OF EXISTING TREE (AT FOUR AND ONE-HALF FEET ABOVE GRADE) TREE CREDITS:	
<hr/>	
6"	1 Tree
12"	2 Trees
18"	3 Trees
24"	4 Trees
30"	5 Trees
36"	6 Trees
42"	7 Trees

7). Tree Protection During Construction

Every attempt shall be made to protect and save existing trees on a development site, except for those trees removed to allow for the erection of the building and/or improvements.

If a tree or group of trees are to be retained on the site for Tree Credits, a tree protection barrier system approved by the City Horticulturist and/or Tree Commission must be constructed and maintained throughout the construction process to protect the Critical Root Zone(s). Refer to the “Tree Protection During Construction” Booklet provided by the City of Eufaula Horticulture Department or Building Department for strategies to maintain proper protection.

8). Protection of Natural Areas:

Areas of undisturbed, desirable trees and vegetation may be designated as “Natural Areas”. Individual Natural Areas must be a minimum of one-tenth (0.1) acre. Natural Areas will be credited against overall fifteen (15%) percent landscaping requirements, and property owner can elect to install a minimum twelve (12’) foot green space in setback instead of the required twenty (20’) foot green space and setback. Credit will not be allowed if proper protection of the Critical Root Zone of the Natural Area is not maintained throughout the construction process. Refer to the “Tree Protection During Construction” Booklet provided by the City of Eufaula Horticulture or Building Department for strategies to maintain proper protection. Loss of Natural Area due to significant tree decline or tree death will require the owner to replace the amount of credited trees lost using the tree credit formula above. Replacement trees will be planted throughout all setbacks and within the former Natural Area.

Section 6.62. Tree Protection Requirements

1). Application of Section 6.62

The requirements of this section shall apply to all land, other than public rights-of-way, located within the corporate city limits of the City of Eufaula, except R-1, R-2, and FAR lots or other lots where a bona fide agricultural or forestry operation exists. All definitions set forth in Section 6.61(3) shall apply to the provisions in this section.

2). Permit

Any person wishing to remove or relocate a desirable tree shall, under the provisions of this Section, make written application with the City of Eufaula Horticulture Department, which application shall include a Landscape Plan as provided in Section 6.61 (4). Upon paying an administrative application fee of thirty (\$30.00) dollars to cover the costs of researching and processing the application, the application and Plan shall be stamped with the date and time. Upon approval by the Horticulturist, the application fee may be waived when tree removal is a direct result of storm damage. All proceeds from the application fee shall be earmarked for the use of the administration of this section.

a. Time of Permit

Any and all permits issued by the City as per the requirements of Section 6.62 shall be declared null and void if commencement of work so permitted is not started within a reasonable time, not to exceed six months. But in no case will the permit be valid for more than twelve months. Permits not used within this period will become null and void and future work will require a new application.

b. Permit Procedure

An application may be field checked prior to issuance of a permit. The City must approve or deny the permit within five (5) working days after the date of receipt of the application. Failure to deny the application, as provided herein, within this five (5) day period shall result in the automatic issuance of the permit as requested in the application. The City Horticulturist may request a recommendation concerning the application from any or all appropriate City departments, and/or Tree Commission.

c. Criteria for Issuance of Tree Removal Permit:

- (1) The tree is located in an area where a structure or improvement will be placed according to an approved plan.
- (2) The tree is diseased, injured, in danger of falling too close to existing or proposed structures, interferes with existing utility service, creates unsafe vision clearance or conflicts with other ordinances or regulations.
- (3) The tree is, or will be after construction, in violation of federal, state, or local laws or regulations, or cause the construction to violate federal, state, or local laws or regulations including, but not limited to, laws and regulations pertaining to government programs for financing the construction.

d. Basis for Denial of Permit

The City Horticulturist, upon a determination that an application for tree removal does not meet the criteria of subparagraph (c) above, may, within his/her discretion, deny the same and shall notify the applicant of the reason(s) for said denial within five (5) working days of his/her decision.

3). Removal of Public Trees

No trees shall be removed from public rights of way without consent of city horticulturist. This shall not apply to trees with a DBH of 4” or less. Any other trees must be made known to city horticulturist for his/her permission to take down.

4). Penalties and Restitution

Any person, firm, or corporation violating or failing to comply with this ordinance shall be subject to a minimum monetary fine of one hundred dollars (\$100) per day per violation for each day said violation remains uncorrected. In addition to any fine levied hereunder, any person, firm or corporation failing to comply with this ordinance shall make monetary restitution to the City of Eufaula according to the following formula set forth below. All court ordered restitution shall be payable by the municipal court clerk to the municipal treasurer for deposit in an account maintained by the City of Eufaula Horticulture Department which is earmarked for the replacement and/or maintenance of public trees.

ACTION	RESTITUTION	OFFENSE
Tree removal (defined in Section 6.62(3)) without tree removal permit or damage to trees left on development sites designated to be protected.	\$27.00 per inch of at DBH or stump up to a maximum of five hundred dollars (\$500.00) restitution	first tree removed
	\$27.00 per inch of diameter	second tree removed

	at DBH or stump per each tree cut.	
	\$35.00 per inch of diameter at DBH or stump with a minimum restitution of \$500.00 dollars per tree.	third and subsequent trees removed
Failure to apply for tree removal permit	Amount of permit fee, plus any fine and restitution if applicable.	first
	Twice the permit fee plus any fine and restitution applicable.	second
	Three times permit fee plus any fine and/or restitution applicable.	third and subsequent
Tree removal on city right-of-way	\$35.00 per inch of diameter at DBH or stump with a minimum of five hundred dollars per tree.	first and subsequent
Damage to tree	\$13.50 per inch of tree diameter at DBH .	first tree damaged
	\$27.00 per inch of tree diameter at DBH .	second and subsequent trees

If “damage to tree(s)” occurs, then property owner shall be liable for the damage to said trees. If the property owner fails to remove dead or damaged tree(s) presenting a public hazard, the City of Eufaula has the authority to remove tree(s) and charge the property owner for services. The “Tree Protection During Construction” Booklet provided by the City of Eufaula Horticulture Department or the Building Department further shows how to prevent damage to tree(s).

Enforcement of this ordinance shall be by Issuance of Summons and Complaint. The City Horticulturist and/or any member of the Tree Commission may write an “environmental offense” ticket, which will be deemed as a courtesy citation only. A record of any courtesy citations will be kept in the Horticulturist’s office and made available to the municipal court upon request.

5). Interference with City Horticulturalist

No person shall hinder, prevent, delay, or interfere with the City Horticulturist, the Eufaula Tree Commission or any other duly authorized individual, while engaged in carrying out the execution or enforcement of this ordinance; provided, however, that nothing herein shall be construed as an attempt to prohibit the pursuit of any remedy, legal or equitable, in any court or competent jurisdiction for the protection of property rights by the owner or any property within the municipality.

6). Nonapplicability of Ordinance to Lands and Rights Used For Facilities of Public Utilities

Nothing herein shall affect or derogate in any way the rights of, or exercise by, any public utility of its present and future acquired rights, to clear (and keep clear) trees and other growth from lands utilized, or to be utilized, for electric or communication facilities of any type, or

dangerous trees adjacent thereto whether such rights were acquired by permits, easements, agreements, deeds, documents, or otherwise from landowners, or were acquired by condemnation, franchise or the operation of State law. The utility company shall cooperate with the City Horticulturist when clearing or pruning of the rights-of-way is exercised.

7). Appeal of Grant or Denial of Permit

Appeals of either a grant or denial of permits pursuant to Section 6.62 shall be to the Eufaula Tree Commission. All appeals shall be placed on the agenda of the next regularly scheduled meeting of the commission. The Eufaula Tree Commission shall have the power to grant permits upon a showing by the applicant by clear and convincing evidence that the applicant will suffer extreme and extraordinary hardship if this ordinance is literally enforced as to said application. No appeals shall be granted unless appeal receives four affirmative votes from the members of the Tree Commission, present and voting, for the hearing. Any appeal of any action taken by the Tree Commission shall be to the Board of Zoning Adjustments.

Section 6.63. Buffer/Screening Requirement

1.) Purpose

The purpose of this section is to protect residential land uses from noise, glare of lights and signs, odor, debris, and visual encroachment of adjacent commercial, manufacturing, or multifamily uses.

2.) Application of Section 6.63

The requirements of this section shall apply to any commercial, manufacturing, or multifamily land use that abuts a residential land use. Where residential development occurs in districts not zoned residential the requirements still apply. The requirements do not apply when land that is zoned FAR is used for agriculture or forestry.

3.) Buffers

A buffer shall consist of a landscaped strip of land at least thirty feet wide, established along the entire length of and contiguous to the designated property line or lines. Buffers shall be grassed or mulched unless ground cover is already established. All requirements of Section 6.61 shall apply to buffers.

4.) Vegetative Screening

Vegetative screen planting is required in buffers to reduce or eliminate nuisances created by incompatible land uses. Such planting shall be so designed, planted, and maintained as to create a visually unbroken barrier at least six feet tall within two years of planting. Any plants that die within said two-year period shall be promptly replaced. As to those plants, a new two-year time frame shall begin for them to reach six feet tall. Plants shall be arranged in such a manner as to provide a variety of plant materials and spacing so that straight single-species rows are minimized. A list of recommended plants will be available from the city Building Department or Horticulturist.

6.631. Exception

When a proposed multifamily development will abut an existing multifamily land use the required buffer will be a minimum of twenty feet. No vegetative screen planting is required. Instead, one large shade tree per every thirty linear feet, or portion thereof, of the adjacent property line or lines is required.

In the case of existing development or any nonconforming lot where the provision of the thirty foot screened buffer precludes the reasonable use of the property, upon approval of the Zoning Administrator and the Mayor, a wall or fence at least six feet high, supplemented by vegetative screening, may be substituted. Plans for the design and construction of such a wall or fence must be constructed along the designated property lines and maintained in good condition. (*Amended 7/22/14; Ord. 2014-7*)

The Planning Commission may require more restrictive buffers for any development that is expected to generate excessive noise, light, odor, or other nuisance.

Section 6.7. Sign Regulations

Section 6.71. Purpose, Applicability and Effect

6.711. Statement of Purpose

The purpose of this ordinance is to protect the health, safety and welfare of the citizens of the City of Eufaula; improve the general aesthetics of the City of Eufaula by providing for uniform standards for the location, spacing, height, setback, lighting and other regulation of signs within the City; and promote the business community through standard advertising practices.

The purposes of this section are as follows:

- a. To preserve and promote the public health, safety, and welfare in the City of Eufaula.
- b. To protect the motoring public from damage or injury caused or partially attributable to distractions or obstructions from improperly designed or situated signs;
- c. To protect property values within the city;
- d. To afford the business community equal and fair opportunity to advertise and promote its products and services without discrimination one over the other; and to enable the fair and consistent enforcement of these sign restrictions.
- e. To promote the business and economic well-being of the Eufaula community by creating a favorable physical image to support local businesses;
- f. To allow signs appropriate-to-the-planned character of each zoning district; and to protect the historic character of neighborhoods in the historic districts.
- g. To protect the right of citizens to enjoy Eufaula's natural scenic beauty;
- h. To enhance the aesthetic appeal of the city in order to promote the city as a tourist attraction; and to protect the tourist attractions of the city from being obstructed from view by numerous large signs.
- i. To encourage the growth of the tourist industry by making signage consistent with and enabling to the tourist attractions.
- j. To enhance the aesthetic appeal of the city in order to attract retirees to the area; and make the city consistent with the appeal and inducement of a retirement community.
- k. To meet the goals of the Eufaula 2020 Strategic Plan

This sign ordinance is adopted under the zoning authority of the City in furtherance of the more general purposes set forth in “The Zoning Ordinance”.

6.712. Applicability - Effect

This ordinance shall be called "Sign Regulations". These sections supplement other sections of the Zoning Ordinance and supersede any conflicting sections.

A sign may be erected, placed, established, painted, created, or maintained in the city only in conformance with the requirements of this ordinance.

The effect of this ordinance is:

- To establish a permit system to allow a variety of types of signs in commercial and industrial zones, and a limited variety of signs in other zones, subject to the standards and the permit procedures of this ordinance;
- To allow small, unobtrusive signs incidental to the principal use of the respective lots on which they are located, subject to the substantive requirements of this ordinance.
- To prohibit all signs not expressly permitted by this ordinance; and
- To provide for the enforcement of the provisions of this ordinance.
- To encourage the use of monument signs.

6.713. Effect - Construction

These sections shall be liberally construed to effect the purpose of reducing the number and size of signs, and to effect the purpose of advancing the statement of purpose of section 6.711. These sections may not be construed or applied in such a way that would give a preference or greater degree of protection to a sign conveying a commercial message than is given to a sign similarly situated and constructed conveying a non-commercial message. These sections must be construed to apply to all signs irrespective of the commercial or non-commercial character of the content. Any ambiguity or question shall be resolved by allowing a non-commercial sign the same benefits, and other preferences that may be given to a commercial sign similarly constructed and situated, or by imposing on such commercial sign the same restriction imposed on the non-commercial sign similarly constructed and situated.

These sections apply to existing signs and to proposed signs. Proposed signs for which construction has not lawfully begun but for which an application has been made or for which a permit has been issued, must conform to these sections. This ordinance is to be construed as a comprehensive regulation in that all types of signs and supporting structures are allowed only in accordance with this ordinance. The message content of a sign is of almost no relevance in that a person desiring to display, for example, a message which is ordinarily considered an off-premise message and is ordinarily considered a non-commercial (i.e. ideological, political, religious, etc.) message, may display that message on a sign which is permitted as an on-premise commercial sign. Similarly, for example, an on-premise non-commercial message can be displayed on a sign which is permitted as an off-premise commercial sign.

Under the sign ordinances of this jurisdiction all signs are regulated, irrespective of whether the existing or future messages are of a commercial or non-commercial nature. The applicant for a sign may make the choice of category. As to existing signs the city shall decide the category, giving consideration to the overall practices and arrangements among the owners of the sign, the owner of the sign site, and the owner of the message. See, for example, the definitional criteria for “off-premise” signs and for “commercial use” in Section

6.72. Once the category is chosen the applicable ordinance will be applied. Therefore, changing the nature of the message on signs from, for example, a commercial message to a non-commercial type of message does not remove the sign from the previously designated category, and all regulations that applied to that category of sign will continue to apply after the nature of the message is changed.

If a sign is to change category from a previous category, a permit must be obtained and the sign must comply with the regulations for the new category. In construing this ordinance no provision is to be read as impliedly creating a type of sign that is not regulated or not prohibited.

Section 6.72. Definitions and Computations

6.721. Definitions and Interpretation

Words and phrases used in this ordinance shall have the meanings defined in this section. Words and phrases not defined in this section but defined in the zoning ordinance of the city shall have the meanings defined in that ordinance. All other words and phrases shall be given their common, ordinary meaning, unless the context clearly requires otherwise.

Words used in the singular shall include the plural; and the plural the singular; and the words used in the present tense shall include the future tense.

The word “shall” is mandatory, not discretionary. The word “may” is permissive.

Section headings or captions are for reference purposes only and shall not be used in the interpretation of this ordinance.

6.722. Definitions

“A” Frame or Sandwich Sign: A sign so named because of the inverted “V” shaped structure and utilization of copy on both sides, facing opposite parallel directions. These signs are usually painted on wood or metal surfaces usually resting on the ground with no permanent attachment.

Abandoned Sign: A sign which no longer identifies or advertises a bona fide business, lessor, service, owner, product, or activity, time of event passed, and/or for which no legal owner can be found. This definition shall also include any sign structure which no longer supports the sign for which it was designed. A sign or sign structure shall be considered abandoned when the business activity or firm which such sign advertises has not been in operation for twelve consecutive months, or does not have a current business license in operation, or when the sign is in a state of disrepair.

Animated Sign: Any sign that uses flashing or blinking lights, movement, or illusion or movement to depict action or create a special effect or scene. An illuminated sign is not considered an animated sign if:

- (a) It has no illumination which is in continuous motion or which appears to be in continuous motion,
- (b) The message does not change at a rate faster than one message every four seconds,
- (c) The interval between message is not less than one second, and,
- (d) The intensity of illumination does not change more often than twice daily.

Attached Sign: Any sign attached to any part of a building, as contrasted to a freestanding sign, and which extends from the wall, but not more than twenty-four (24) inches.

Awning: Any rigid or non-rigid material such as fabric or flexible plastic that is supported by or stretched over a frame that is attached to an exterior wall.

Awning Sign: A sign placed directly on the surface of an awning.

Backlit Awning/Canopy: A structure, projecting from and supported by the exterior wall of a building constructed of materials such as cloth, plastic, or metal with characters, letters, figures, etc. illuminated by electric light, luminous tubes, or other lighting method as part of the sign structure. This type of structure will be considered a wall sign for regulation purposes.

Banner: Any sign of lightweight fabric or similar material that is permanently mounted to a pole or a building by a permanent frame at one or more edges.

Bench Sign: An advertising message on any portion of a bus stop bench or other bench.

Building Marker: Any sign indicating the name of a building and date and incidental information about its construction, which sign is cut into a masonry surface or made of bronze or other permanent material.

Building Official: The official designated by the city to administer the sign ordinance, or his or her designee.

Canopy: An extension of the roof of a building or a freestanding structure that has a roof with support, but no walls. This definition excludes residential carport.

Canopy Sign: Any sign that is a part of or attached to an awning, canopy, or other fabric, plastic, or structural protective cover over a door, entrance, window, or outdoor service area. A marquee is not a canopy.

Changeable Copy Sign: A sign or portion thereof whose informational content can be changed or altered by manual or electric, electro-mechanical, or electronic means.

City: The City of Eufaula.

Commercial Sign: When describing the content of a sign, a sign advertising, identifying, directing attention to, or otherwise relating to commerce and to property, goods or services for sale, lease, exchange or any other transaction where value is given or received by any party to the transaction.

Commercial Message: Any sign wording, logo, or other representation that, directly or indirectly, names advertises, or calls attention to a business, product, service, or other commercial activity.

Directional Sign: A sign that provides on-site directional assistance of the convenience of the public such as location of exits, entrances, and parking lots.

Electronic Display Screen: A sign, or portion of a sign, that displays an electronic image or video, which may or may not include text. This definition includes television screens, plasma screens, digital screens, flat screen, LED screens, video boards, and holographic displays.

Electronic Message Center: Any sign or portion of a sign that uses changing lights to form a sign message or messages in text from wherein the sequence of messages and the rate of change is electronically programmed and can be modified by electronic processes.

Erect: To build, paint, construct, reconstruct, attach, hang, suspend, place, or affix.

Fascia Sign: A sign attached directly to the fascia of a building.

Fence Sign: A sign that is fastened to or painted on a fence in such a manner that the fence becomes the supporting structure for, or forms the background surface of the sign.

Festoons: A string of ribbons, tinsel, small flags, or pinwheels.

Flag: A piece of cloth or other flexible material varying in size, color, and/or design, used as a symbol, standard, signal, or emblem.

Freestanding Sign: Any sign supported by structures or supports that are placed on, or anchored in, the ground and that are independent from any building or other structure. Includes ground and mounting signs.

Ground Sign: A freestanding sign supported by a sign structure placed in the ground and which is entirely independent of any building, fence, or object other than the sign structure (which included uprights, braces, etc.) for support. A ground sign is also known as a pole sign.

Hanging Sign: See suspended sign.

Illegal Sign: Any sign erected or maintained in violation of this ordinance and more particularly described in Section 6.734.

Illuminated Sign: A sign illuminated in any manner by an artificial light source.

Incidental Sign: A sign, generally informational, that has a purpose secondary to the use of the zone lot on which it is located, such as “no parking”, “entrance”, “loading only”, “telephone”, and other similar directives. No sign with a commercial message legible from a position off the zone lot on which the sign is located shall be considered incidental.

Inflatable Sign: Any device which is supported by air pressure or inflated with air or gas which is used to attract the attention of the public, whether or not it displays any specific advertising message.

Lot: Any piece or parcel of land or a portion of a subdivision, the boundaries of which have been established by some legal instrument of record, that is recognized and intended as a unit for the purpose of transfer of ownership.

Main Traveled Way: The portion of a street that is paved with a hard surface or gravel and used for the travel of vehicles.

Marquee: Any permanent roof-like structure projecting beyond a building or extending along and projecting beyond the wall of the building, and supported by the building, generally designed and constructed to provide protection from the weather.

Marquee Sign: Any sign attached to, in any manner, or made a part of a marquee.

Monument Sign: Any freestanding sign in which the bottom of the sign is flush with the ground, and with a maximum height not to exceed ten (10) feet.

Noncommercial Sign: Any sign whose message does not conform to the definition of a commercial message.

Nonconforming Sign: Any sign in existence prior to the effective date of this ordinance, or any applicable amendment thereto, which does not satisfy the requirements of this ordinance, as amended, but not declared illegal by definition of this section or more particularly described in Section 6.734.

Official Sign: Any sign erected by or at the direction of a governmental agency.

Off-Premise Sign, Off-site Sign or Off-Site Advertising: Any sign that is used to attract attention to an object, person, product, institution, organization, business, service, event or location that is not located on the premises upon which the sign is located, or which said product, service, business, or activity is sold, located, or conducted on such premises only incidentally, if at all. This definition does not include governmental traffic, directional, or regulatory signs or notices of any federal, state, or local governmental entity. Off-premise signs are regulated by Section 6.78 of this ordinance.

On-Premise or On-Site Sign: Any sign that is used to attract attention to an object, person, product, institution, organization, business, service, event or location that is located on the premises upon which the sign is located.

Pennant: Any lightweight plastic, fabric, or other material, whether or not containing a message of any kind, suspended from a rope, wire, or string, usually in series, designed to move in the wind.

Permanent Sign: Any sign which is designed, constructed and affixed at the site in such a manner that is intended to last indefinitely without change.

Person: Any individual, firm, partnership, corporation, company, association, trust or any other group or combination of individuals operating as a unit and including any trustee, receiver, assignee, or other similar representative thereof.

Portable Sign: Any sign not permanently attached to the ground or other permanent structure, or a sign designed to be transported, including, but not limited to, signs designed to be transported by means of wheels; signs converted to A-or T-frames; balloons used as signs; umbrellas used for advertising; and signs attached to or painted on vehicles parked and visible from the public right-of-way, unless said vehicle is used in the normal day-to-day operations of the business.

Premises: A single parcel of land with its appurtenances and buildings which, because of its unity of use, may be regarded as the smallest conveyable unit of real estate.

Projecting Sign: Any sign affixed to a building or wall in such a manner that its leading edge extends more than twelve (12) inches beyond the surface of such building or wall.

Roof Line: The highest continuous horizontal line of a roof, excluding any mansards, cupolas, pylons, chimneys, or minor projections. On a sloping roof, the roof line is the principal ridge line, or the highest line common to one or more principal slopes of roof. On a

flat roof, the roof line is the highest continuous line of the roof or parapet, whichever is higher.

Roof Sign: Any sign erected or attached over or on the roof line of a building, and supported by the building.

Roof Sign, Integral: Any sign erected or constructed as an integral or essentially integral part of a normal roof structure of any design, such that no part of the sign extends vertically above the highest portion of the roof and such that no part of the sign is separated from the rest of the roof by a space of more than six inches.

Setback: The distance from the property line to the nearest part of the applicable sign, measured perpendicularly to the property line.

Shopping Center: A group of commercial establishments planned, developed, managed as a unit, related in location, size, and type of shops to the trade area that the unit serves, and providing on-site parking in definite relationship to the types and sizes of stores.

Sign: Any device, fixture, placard, sculpture, or structure, whether natural or man made, that uses any color, form, graphic, illumination, symbol, or writing to advertise, announce the purpose of, or identify the purpose of a person or entity, or to communicate information of any kind to the public. This definition includes all parts of such a device, including its structure and supports and also includes balloons, banners, pennants, flags, lights, reflectors, reflected lights, streamers or other devices which are used to attract the attention of the public, whether or not they convey a specific advertising message.

Sign Face: The surface or plane of the sign upon, against, or through which a message is displayed or illustrated.

Sign Structure: Those parts of a sign designed to support it in place.

Site: A lot or parcel, or contiguous lots or parcels of land on which a building or complex of buildings is located.

Snipe Sign: A temporary sign or poster affixed to a tree, fence, utility pole, etc. Political signs that are affixed to a tree, fence, utility pole, etc., shall meet the definition of a snipe sign and be subject to the requirements thereof.

Street: A strip of land or way dedicated and used for vehicular traffic (as well as pedestrian traffic) that provides direct or indirect access to property, including, but not limited to alleys, avenues, boulevards, courts, drives, highways, lanes, places, roads, terraces, trails, or other thoroughfares.

Street Frontage: The distance for which a lot line of a zone lot adjoins an opened public street, from one lot line intersecting said street to the furthest distance lot line intersecting the same street. Driveways and alleys are not to be used to determine or calculate street frontage.

Suspended Sign: A sign that is suspended from the underside of a covered surface, and is completely covered by a building awning or permanent canopy.

Temporary Sign: A sign that is displayed only for a specified period of time about special events or occurrences.

Use: The purpose for which a building, lot, sign, or structure is intended, designed, occupied, or maintained.

Usable Wall Area: The exterior wall or surface area of a building or structure that excludes doors.

Wall Sign: Any sign attached parallel to, but within six inches of, a wall, or painted on the wall surface of an outside wall of any building or structure, which is supported by such wall or building.

Wind Sign: Any sign, part of a sign or series of signs, designed or erected in such a manner as to move when subjected to wind pressure. Wind sign does not include “suspended signs.”

Window Sign: Any sign, pictures, symbol, or combination thereof, designed to communicate information about an activity, business, commodity, event, sale, or service, that is attached inside a window or upon the window panes or glass and is visible from the exterior of the window.

Zone Lot: A lot as determined in the glossary in a designated zone district as determined by the City of Eufaula Zoning Ordinance.

6.723. Computations

The following principles shall control the computation of sign area and sign height.

(a) Computation of Sign Area

The area of a sign, other than that of a wall sign which may be calculated differently, shall be computed by means of the smallest rectilinear figure (but which shall have a continuous perimeter of not more than eight straight lines) which encompasses all lettering, wording, frame, design or symbols, together with any background and any illuminated part of the sign on which the sign is located, if such background or such illuminated part of the sign is designed as an integral part of and related to the sign. Supports and bracing which are not intended as part of the sign and which contain no message, shall be excluded. In the case of multi-faced sign, the area of the sign shall be considered to include all faces visible from one direction.

The area of a wall sign shall be within a single, continuous perimeter composed of any straight line geometric figure which encloses the extreme limits of the advertising message. The combined areas of the individual figures shall be considered the total sign area.

(b) Computation of Height

The height of a sign shall be computed as the distance from the ground directly below the center of the sign or from the grade of the closet point in the traveled way of the road or street the sign is located along, whichever is higher, to the sign or sign structure’s highest point.

Section 6.73. General Provisions

6.731. Introduction

Except as specifically exempted or prohibited in this section, all signs, constructed, reconstructed, or modified shall require a permit in accordance with the provisions of this ordinance.

6.732. Signs not Regulated

Public signs erected by or on behalf of a governmental body to post legal notices, identify public property, convey public information, and direct or regulate pedestrian or vehicular traffic are exempted from the regulations of this ordinance and do not require a permit.

6.733. Signs Regulated but not Requiring Permits

The following types of signs are regulated but do not require permits, and shall not be considered in determining the allowable number or size of signs on a zone lot; provided, however, that they must comply with all other applicable sections of this ordinance. The erection of any sign not listed in this Section shall require a permit.

(a) A nonilluminated, non-portable sign per zone lot or premises in residential districts not to exceed six (6) square feet in sign area or five feet in height. These signs may contain either a non-commercial message or be used to advertise the sale or rental of the property on which it is located, or to advertise improvements made to a building such as a contractor or vendor stating "Siding by ABC" during period of construction or improvement.

(b) A non-portable sign per zone lot or premises in C-1, C-2, C-3, C-4, M-1, M-2, and FAR zones not to exceed thirty-two (32) square feet in size and six (6) feet in height. This sign may include, but not be limited to either a commercial or non-commercial message, to advertise the sale or rental of the property on which it is located, or to convey to the public the future plans on a parcel of property such as 'coming soon', 'financing by', 'future home of', 'construction by', etc. during period of construction or improvement.

(c) Signs required by law, statute or ordinance;

(d) Decorative flags, flags, emblems or insignia of any nation, state or political subdivision, or individual or group displaying a message or meaning, provided that (1) they do not number more than three per lot, or more than one for each individual message, (2) the individual surface area is not greater than 40 square feet per flag, (3) if larger than three feet by four feet, are supported by a pole attached to the ground, and (4) the supporting poles are not greater than the larger of twenty(20) feet high or five(5)feet more than the permitted height for a freestanding sign. Such exempted wind signs shall not be attached to a light standard, canopy, or sign structure.

(e) Temporary window signs located on the inside of window intended for the purpose of disseminating information about special sales or promotional campaigns, provided that such signs are of a temporary nature, do not contain illumination, and are constructed of such materials and are of such a nature that clearly indicates that they are temporary. Such signs may not cover more that fifty (50) percent of any window area and may not block the view of access or exits. One temporary window sign with illumination may be allowed per window but shall be limited to ten (10) percent of the window ar4a and shall not contain any animation or flashing lights.

(f) Holiday lights and decorations which are associated with any national, local or other nationally recognized holiday or celebration or special event such as a grand opening or special sales event for a maximum time period of forty-five (45) calendar days before and ten (10) calendar days after. Such lights and decorations are allowed once per year. Flashing lights are not allowed.

- (g) Indoor signs which are not intended to be viewed from outside the building.
- (h) Directional signs not exceeding four (4) square feet designed to direct and inform the public as to the location of exits, entrances, service areas, loading and unloading areas, or similar wording of an informal nature, and which do not contain any commercial message.
- (i) Gasoline pump signs - Signs shall be allowed on gasoline pumps so as to provide required information to the public, such as gallons, price, octane rating, type of fuel, and brand name.
- (j) Gasoline awning signs - signs shall be allowed on no more than two sides of a gasoline awning that depict the lead name of the business, such as “Exxon”, “BP”, “Shell”, etc.

Signs that are an integral part of a vending machine.

- (k) “A” Frame and sandwich signs. Such signs shall not exceed six square feet on any one side and shall not be placed in such a way as to encumber any sidewalk or similar area.

6.734. Signs Prohibited and Declared Illegal

All signs not expressly permitted under this ordinance are prohibited and are declared to be illegal signs in the city, and are named and described as follows:

- (a) Banners, pennants, festoons, and other wind signs, except as allowed by Section 6.737;
- (b) Temporary signs except as allowed under the provisions of this ordinance;
- (c) Snipe signs and other signs attached to utility poles, light standards, trees, fences, the ground itself, or other natural features.
- (d) Portable signs, except “A” frame and sandwich signs;
- (e) Searchlights, strobe or flashing lights (except as required for public safety by state or local regulation);
- (f) Illuminated tubing such as neon or string of lights outlining property lines, open sales areas, doors, windows, or wall edges of any building. This does not include holiday decorations as regulated in Section 6.733(f).
- (g) Inflatable signs and tethered balloons
- (h) Animated signs
- (i) Any abandoned sign or sign structure
- (j) Any sign on a motor vehicle or trailer which is parked in front of a business for the purpose of advertising a business or product or service of a business located on the premises where such vehicle is parked, unless said motor vehicle or trailer is used in the day to day operations of the business for transportation purposes.
- (k) Bench signs, or any sign affixed to bus shelters.
- (l) Roof signs. Mansard, pent eave, and canopy signs are permitted in accordance with other requirements contained herein.

(m) Sign in the public right-of-way except those specifically permitted by other provisions of this ordinance.

(n) Sign imitating traffic or emergency signs or signals.

(o) Signs that prevent free ingress or egress from any door, window, or fire escape. No sign of any kind shall be attached to a fire escape.

(p) Signs that require the removal of any trees from the public right-of-way; excluding traffic, directional, warning, or information signs owned by any public or semi-public agency. Monument signs are encouraged in certain areas where trees would obstruct the view of free standing pole signage.

(q) Sign lighting which is incompatible with residential character. No sign shall be illuminated in such a way that it cast intense light onto any residential premises. Intense light shall be considered any light with intensity greater than the average residential street light.

6.735. Permits Required

If a sign requiring a permit under the provisions of this ordinance is to be placed, constructed, erected, or modified on a zone lot, the owner of the lot shall secure a sign permit prior to the construction, placement, erection, or modification of such a sign in accordance with the requirements of this section.

Furthermore, the property owner shall maintain in force, at all times, a sign permit for such sign in accordance with this section.

No sign permit of any kind shall be issued for an existing or proposed sign unless such sign is consistent with the requirements of this ordinance (including those protecting existing signs) in every respect.

6.736. Design, Construction, and Maintenance

All signs requiring a permit shall be designed, constructed, and maintained in accordance with the following standards:

All signs shall comply with applicable provisions of the International Building code and the electrical code of the city at all times.

All signs requiring a permit shall be constructed of permanent materials and shall be permanently attached to the ground, a building, or another structure by direct attachment to a rigid wall, frame, or structure.

All signs shall be maintained in good structural condition, in compliance with all building and electrical codes, and in conformance with this code, at all times. The Building Official, or his designee, shall have the right to order the repair or removal of any sign which is defective, damaged, or substantially deteriorated, as defined in the Building Code.

No person may engage in the business of erecting, relocating, constructing, or maintaining signs without a valid city license and all required state and federal licenses.

All persons involved in maintenance, installation, alteration, or relocation of signs near or upon any public right-of-way shall agree to hold harmless and indemnify the City, its officers, agents, and employees, against any and all claims of negligence resulting from such work.

All persons involved in the maintenance, installation, alteration, or relocation of signs shall maintain all required insurance and shall file with the city a satisfactory certificate of insurance to indemnify the state, county, or city against any form of liability in accordance with city, county, and state regulations.

6.737. Temporary Special Use Sign Permits for Banners

Temporary special use sign permits may be issued for banners to those qualifying and meeting the general requirements of this permit. The Code Enforcement Officer will have authority to review applications under this section and issue permits. The qualifications are as follows:

- (a) The sign permit must be for a specified time and shall not exceed fifteen (15) days in duration. The applicant will be responsible for removing the sign at the expiration of the permit. Failure to remove the sign at the expiration date will result in the city removing the sign and assessing the cost to the applicant.
- (b) Temporary special use signs for banners shall not exceed 6 feet in height and shall be placed solely on the displayer's property. Banners shall not exceed 3' by 10' in size, or equivalent to 30 square feet. A clear view from any street intersection or entranceway must be provided between heights of three feet and ten feet in a triangle formed by the corner and points on the curb 30 feet from the intersection or entranceway.
- (c) The permit is limited to 15 days, four times per year, once per quarter, not to run consecutively, with each business allowed one banner per occurrence.

Section 6.74. Regulation by Zone

6.741. Signs Permitted in All Zones

The signs enumerated in Section 6.732, Signs not Regulated, and Section 6.733, Signs Regulated but not Requiring Permits, are permitted in all zones.

6.742. Signs Permitted in Residential Zones

For the purposes of this section, the following shall be considered residential districts: R-1, R-2, R-3, R-4, MHR, AND MH, E-1, AND FAR.

Signs are permitted in these districts as follows:

- (a) For home occupations - One (1) non-illuminated wall sign is permitted not exceeding three (3) square feet in size.
- (b) For single-family subdivisions and multi-family complexes, including mobile home parks - Up to two (2) monument signs per street frontage, not to exceed twenty (20) square feet in sign area per sign or six (6) feet in height. Monument signs may be placed in medians maintained by homeowners' associations or other private associations and must be set back in such a manner so as to not interfere with ingress/egress or other traffic patterns and so that a clear view is allowed at intersections. Signs may be illuminated.
- (c) For permitted nonresidential uses other than home occupations, including churches and synagogues - One (1) freestanding monument sign not to exceed thirty (30) square feet in sign area or 10 feet in height. Unless otherwise specified, signs shall be set back from the property line so that the closest edge of a sign does not project into the right-of-way. A clear

view from any street intersection or entranceway must be provided between the heights of three feet and ten feet in a triangle formed by the corner and points of the curb thirty feet from the intersection or entranceway. Signs may be illuminated, including an electronic message center that does not flash or display any animated image.

6.743. Signs Permitted in Commercial Zones

Signs in these zones may be illuminated. Signs are permitted in these districts as follows:

(a) One (1) freestanding ground sign per street frontage not to exceed the following:

<u>Zone</u>	<u>Area</u>	<u>Height</u>
C-1	24 square feet	12 feet
C-2	100 square feet	25 feet
C-3	50 square feet	10 feet
C-4	100 square feet	25 feet

Signs in the C-2 and C-4 zones may be up to 150 square feet in sign area, a maximum height of 45 feet and have a reader board of 48 square feet if located more than 50 feet from the edge of the main traveled way of the adjacent roadway.

All freestanding signs must be set back from the property line so that the closest edge of the sign does not project in to the right-of-way. A clear view from any street intersection or entranceway must be provided between the heights of three feet and ten feet in a triangle formed by the corner and points on the curb 30 feet from the intersection or entranceway.

In addition to the freestanding sign, each business may have a reader board not to exceed 32 square feet in area attached to and made part of the freestanding sign. This reader board may be an Electronic Display Center, provided that the text displayed does not flash or display any animated image.

(b) Attached wall sign or backlit awning/canopy sign per street frontage. Attached wall signs shall not exceed an aggregate of 30% of the wall area for buildings located more than 20 feet from the property line and an aggregate of 20% of the wall area for buildings located 20 feet or less from the property line, but not to exceed 200 square feet. Wall signs shall not obstruct upper-story window or architectural embellishments. The copy area of awning/canopy signs is limited to forty-five (45) percent of the awning, not to exceed the maximum allowable for the building.

(c) One (1) under-canopy sign for each separate street-level occupancy or separate entrance hanging directly from the canopy in front of the establishment, provided each such sign is perpendicular to the building, has a minimum clearance of eight (8) feet to grade, is not taller than one (1) foot, and have total area not to exceed four (4) square feet.

(d) Incidental signs not to exceed four (4) square feet of sign area per occupancy.

(e) Multiple establishments on a single zone lot or shopping centers may construct one (1) freestanding sign per public road frontage. The area of the primary sign shall be based on one (1) square foot for each front foot of the total buildings in the shopping center; however the total square footage of the primary sign shall not exceed two hundred fifty (250) square feet. The location of the primary sign shall be placed ten feet from the property line, measured

from the closest edge of the sign to the property line. In addition to setback requirements, signs shall be located such that there is at every street intersection a clear view between heights of three feet and ten feet in a triangle formed by the corner and points on the curb 30 feet from the intersection or entranceway. In addition, each establishment in the shopping center may construct one (1) wall sign per public road frontage of each establishment as regulated in section (b) above.

(f) Multiple franchised establishments or commercial businesses on a single zone lot may construct one (1) freestanding sign for each franchised entity the size of which shall conform to these regulations for the district in which they are located.

(g) Window signs of a permanent nature where the business name is depicted on the copy. The size of the sign shall not exceed fifty (50) percent of the window area.

(h) Gasoline awning signs -signs shall be allowed on 2 sides of the awning. Sign area shall exceed thirty (30) percent of the awning area with a total maximum allowable sign area of 100 square feet.

(i) Fence signs of a temporary or permanent nature. The size shall not exceed thirty (30) percent of the fence area with a total maximum allowable size area of one-hundred (100) square feet.

6.744. Signs Permitted in Industrial Zones

Signs in these zones may be illuminated. Signs are permitted in the M-1 and M-2 districts as follows:

(a) One (1) freestanding sign per street frontage not to exceed one hundred (100) square feet, or one hundred fifty (150) square feet if located more than fifty feet from the edge of the main traveled way of the adjacent roadway, and not more than twenty-five (25) feet in height.

All freestanding signs must be set back at least ten (10) feet from all property lines. In addition to setback requirements, signs shall be located such that there is at every street intersection a clear view between heights of three feet and 10 feet in a triangle formed by the corner and points on the curb 30 feet from the intersection or entranceway.

(b) One (1) attached wall sign shall not exceed 25% of the wall area on which the signs are installed, not to exceed 200 square feet.

(c) Fence signs of a temporary or permanent nature. The size of the sign shall not exceed thirty (30) percent of the fence area with a total maximum allowable size of thirty (30) square feet.

Section 6.75. Nonconforming and Illegal Signs

6.751. Nonconforming Permanent Signs

Subject to the following conditions, all permanent signs not defined as an illegal sign by this ordinance and which were made nonconforming by the passage of ordinance 1986-26 or which were made nonconforming by the passage of this ordinance or by any subsequent amendment, may be continued in operation and maintained. (*Amended 9/17/12; Ord.2012-7*)

Such signs shall not be:

- (1) replaced with another nonconforming sign.
- (2) enlarged, extended, (constructed, reconstructed), moved, or structurally altered except to bring the sign into conformance with all provisions of this ordinance;
- (3) re-established after damage or destruction if such damage to the sign exceeds 50 percent of its original construction cost or current replacement cost, whichever is less. The extent of the damage shall be determined by the Building Official.
- (4) re-established after it has been removed or has been abandoned for 12 consecutive months or more. (A sign shall be considered abandoned if the business establishment advertised by said sign has not been open for business within the past 12 consecutive month period, does not have a current business license in operation or the sign is in a state of disrepair.) (*Amended 9/17/12; Ord.2012-7*)

6.752. Nonconforming Portable, Temporary, or Wind Signs

All portable, temporary, or wind signs which are made nonconforming as a result of the passage of this ordinance, or from the passage of any subsequent amendment to this ordinance are hereby declared to be illegal signs and shall be removed within ninety (90) days of the effective date of this ordinance.

6.753. Illegal Signs

All signs identified as illegal under Section 6.734 and 6.752 of this ordinance shall be removed within ninety (90) days of the effective date of this ordinance in accordance with the enforcement provisions of this ordinance.

Section 6.76. Administration and Enforcement

6.761. Permit Procedure

(a) All signs, except as otherwise provided in Section 6.73 of this ordinance, shall require a sign permit prior to being constructed, reconstructed, moved, altered, placed, or repaired. Sign permits shall be issued by the Building Official.

(b) Permit Application

All applications for sign permits for the erection or relocation of a sign shall be submitted to the Building Official.

(c) Permit Fees

Each application for a sign permit shall be accompanied by the applicable fees, which shall be established by the city council of the city from time to time.

(d) Issuance and Denial

(1) Completeness: Within five working days of receiving an application for a sign permit, the Building Official shall review it for completeness. If the Building Official finds that it is complete, the application shall then be processed. If the Building Official finds that it is incomplete, the Building Official shall, within such five-day period, send to the applicant a notice of the specific ways in which the application is deficient, with appropriate references to the applicable sections of this ordinance.

(2) Action: Within seven working days of the submission of a complete application for a sign permit, the Building Official shall either:

(aa) Issue the sign permit, if the sign(s) that is the subject of the application conforms in every respect with the requirements of this ordinance; or

(bb) Reject the sign permit if the sign(s) that is the subject of the application fails in any way to conform with the requirements of this ordinance. In case of a rejection, the Building Official shall specify in the rejection the section or sections of the ordinance or applicable plan with which the sign(s) is inconsistent.

(e) Inspection Upon Completion

Any person installing, structurally altering, or relocating a sign for which a permit has been issued shall notify the Building Official upon completion of the work. The Building Official shall then conduct an inspection within seven (7) working days. If the construction is complete and in full compliance with this ordinance and with the building and electrical codes, the Building Official shall affix to the premises a permanent symbol identifying the sign(s) and the applicable permit by number or other reference. If the construction is substantially complete but not in full compliance with this ordinance and applicable codes, the Building Official shall give the owner or applicant notice of the deficiencies and shall allow an additional 30 days from the date of inspection for the deficiencies to be corrected. If the deficiencies are not corrected by such date, the permit shall lapse. If the construction is then complete, the Building Official shall affix to the premises the permanent symbol described above.

(f) Lapse of Sign Permit

A sign permit shall lapse if the business license for the premises lapses, is revoked, or is not renewed. A sign permit shall lapse if the business activity on the premises is discontinued for a period of 12 consecutive months or more. A sign that was constructed or maintained in conformance with a permit under this ordinance, but for which the permit has lapsed, shall be in violation of the ordinance.

(h) Assignment of Sign Permit

A current and valid sign permit shall be freely assignable to a successor as owner of the property or holder of a business license for the same premises, subject only to filing such application as the Building Official may require and paying any applicable fee. The assignment shall be accomplished by filing and shall not require approval.

(I) Appeal Procedure

Any person applying for a sign permit who is denied a permit or disagrees with any ruling by the Building Official may appeal to the Zoning Board of Adjustment.

6.762. Permits for Existing Signs

For any sign in the city on the effective date of this ordinance, an application for a sign permit must be submitted to the Building Official within 180 days. For any sign on property annexed at a later date, applications for sign permits shall be submitted within six months of the effective date of the annexation or within such period as may be established in an annexation agreement between the city and the landowner. Applications for permits for existing signs

submitted within 180 days of the effective date of this ordinance shall be exempt from the initial fees adopted under authority of this ordinance, but not from any subsequent fees.

6.763. Permits for Nonconforming Signs

A sign that could be permitted under this ordinance only with a sign permit, but which was in existence on the effective date of this ordinance, or on a later date when the property is annexed to the city, and which was constructed in accordance with the ordinances and other applicable laws in effect on the date of its construction, but which by reason of its size, height, location, design, or construction is not in conformance with the requirements of this ordinance, shall be issued a Nonconforming Sign Permit if an application in accordance with Section 6.762 of this ordinance is timely filed. Such permit shall allow the sign(s) subject to such permit, which were made nonconforming by the adoption of this ordinance, to remain in place and be maintained subject to the provisions of Section 6.75. A Nonconforming Sign Permit shall lapse and become void under the same circumstances as those under which any other sign permit may lapse and become void.

6.764. Violations

Any of the following shall be a violation of this ordinance and shall be subject to the enforcement remedies and penalties provided by this ordinance, by the zoning ordinance, and by state law:

- (a) To install, create, erect, or maintain any sign in a way that is inconsistent with any plan or permit governing such sign or the zone lot on which the sign is located;
- b) To install, create, erect, or maintain any sign requiring a permit without such a permit;
- (c) To fail to remove any sign that is installed, created, erected, or maintained in violation of this ordinance, or for which the sign permit has lapsed; or
- (d) To continue any such violation. Each such day of a continued violation shall be considered a separate violation when applying the penalty portions of this ordinance.

6.765. Enforcement and Remedies

Any violation of this ordinance or of any condition or requirement adopted pursuant hereto may be restrained, corrected, or abated, as the case may be, by injunction or other appropriate proceedings pursuant to state law. A violation of this ordinance shall be considered a violation of the zoning ordinance of the city. Remedies and enforcement options shall be applied to the person, persons, corporations, business or entity in whose name the sign permit issued and/or the owner of the property. The remedies of the city shall include the following:

- (a) Issuing a stop-work order for any and all work on any signs on the same zone lot;
- (b) Seeking an injunction or other order of restraint or abatement that requires the correction of the nonconformity or the removal of the sign(s);
- (c) Imposing any penalties that can be imposed directly by the city under the zoning ordinance;
- (d) Seeking in court the imposition of any penalties that can be imposed by such court under the zoning ordinance; and

(e) In the case of a sign that poses an immediate danger to the public health or safety, taking such measures as are available to the city under the applicable provisions of the zoning ordinance and building code for such circumstances.

The city shall have such other remedies as are and as may from time to time be provided for or allowed by state law for the violation of the zoning ordinance.

All such remedies provided herein shall be cumulative. To the extent that state law may limit the availability of a particular remedy set forth herein for a certain violation or a part thereof, such remedy shall remain available for other violations or other parts of the same violation.

Any sign installed or placed on public property, except in conformance with the requirements of this ordinance, shall be forfeited to the public and subject to confiscation. In addition to other remedies hereunder, the city shall have the right to recover from the owner or person placing such a sign the full costs or removal and disposal of such sign.

Section 6.77. Variances to Sign Requirements

The Zoning Board of Adjustments is hereby empowered to vary or adapt the strict application of the requirements of this ordinance. A variance may be appropriate where by reason of exceptional narrowness, shallowness, or shape or by reason of other exceptional topographic conditions or other extraordinary and exceptional situation or conditions on a piece of property, the strict application of the following regulations enacted under this ordinance would result in peculiar, exceptional, and hardship on the owner of such property: sign setback, sign height, sign placement and/or sign type.

The following regulations enacted in this ordinance are not appealable: maximum allowable square footage of sign area, total number of signs allowed, maximum allowable total sign square footage allowed per site and regulations that protect public safety.

After denial of a sign permit by the Building Official, a property owner or sign contractor may apply to the Board of Adjustment for a variance. No variance in the strict application of the provisions of this ordinance shall be granted by the Board of Adjustment unless it finds that the strict application of the provisions would cause exceptional hardship to the property owner. In general, the power to authorize a variance from the terms of this ordinance shall be sparingly exercised and shall not apply to non-appealable regulations as set out in the second paragraph of this Section 6.77. It is the intent of this ordinance that the variance be used only to overcome some exceptional physical condition of a parcel of land which poses practical difficulty and prevents the owner from obtaining the full use and purpose of the sign as intended by this sign ordinance. Any variance granted shall be the minimum adjustment necessary for the reasonable use of the sign.

The applicant must prove that the variance will not be contrary to the public interest and that practical difficulty and unnecessary hardship will result if it is not granted. The Board may prescribe any safeguard that it deems necessary to secure substantially the objectives of the regulations or provisions to which the variance applies.

Section 6.78. Off-Site Sign Regulations

Off-site signs advertising a product for sale or a service to be rendered at a location other than the premises shall be permitted in the Forestry, Agricultural, and Residential District, and Commercial and Industrial Districts under the following conditions:

- a. Where two (2) or more off-site signs are along the frontage of a single street or highway, they shall not be less than one thousand (1,000) feet apart. A double face (back to back) or v-type structure shall be considered a single sign.
- b. The total surface area, facing in the same direction of any off-site sign, shall not exceed three hundred feet in area.
- c. No off-site sign shall be erected on the roof of any buildings, nor shall one sign be placed above another sign.
- d. Off-site signs must be set back a minimum of 10 feet from the right-of-way and must not exceed a height of 35 feet.

Off-site signs may be illuminated by reflected light only, provided the source of light is not directly visible and is so arranged to illuminate away from the adjoining premises. No illumination involving movement by reason of lighting arrangement or other devices shall be permitted on off-site signs

Section 6.8. Large-Scale Retail

(1) Purpose and Intent

This purpose of this section is to provide standards that address the unique characteristics of large scale retail/commercial developments.

The intent of the standards is to achieve the following objectives:

1. To identify and mitigate impacts on traffic, city services, sensitive environments, land uses nearby, and community aesthetics and character.
2. To encourage large-scale, commercial-retail buildings and large-scale, commercial-retail development projects to have good architectural design rather than an enormous, warehouse appearance with unbroken, blank walls. Good design encourages clearly defined entryways, articulated rooflines to prevent monotony, pedestrian-amenity areas, and concealment of unsightly mechanical structures from public view.
3. To encourage pedestrian-oriented design that effectively resolves the incompatibility between pedestrians and motorists while providing interconnectivity between buildings, parking areas, and other internal/external components.
4. To encourage parking lot design that meets vehicular needs while providing a safer, efficient, comfortable pedestrian flow.
5. To encourage adequate landscaping that allows large buildings and their components to blend with their surroundings while providing screening and shade for the public benefit.
6. To encourage enhanced lighting and compatible signage design and to avoid forms of nuisance and intrusiveness into adjacent areas while enhancing public safety.

6.82. Applicability

The requirements of this section apply to all retail/commercial structures whose gross enclosed floor space equal or exceeds 65,000 sq. ft. Any project whose building permit has been applied

for or issued prior to the effective date of this amendment to the comprehensive zoning ordinance of the City Of Eufaula shall be allowed to proceed under the previous requirements.

6.83. Impact Studies

a. The applicant shall have a traffic impact study prepared consistent with the methodology commonly used by the Institute of Traffic Engineers. In addition to the general standards, the traffic impact study shall include weekend and holiday traffic generation and impact analysis. The traffic impact study shall also study intersections within a large enough area to take into account the regional traffic draw of a large-scale retail establishment. The traffic impact study shall be conducted by a certified traffic engineer registered in the State of Alabama.

b. The applicant shall provide detailed analysis of expected impacts on utilities and public services, including water, sewage, storm drains, solid waste disposal, police and fire protection, emergency services, and other public services.

6.84. Aesthetic and Visual Characteristics.

a. Facades and exterior walls including sides and backs. The building shall be designed in a way that will reduce the massive scale and uniform and impersonal appearance and will provide visual interest consistent with the community's identity, character, and scale. Single-tenant structures shall provide variations in facade, roofline and depth to provide the appearance of multi-tenant occupancy. Long building walls of at least one hundred (100) feet shall be broken up with projections or recessions of sufficient depth along all sides, and in sufficient number, to reduce the unbroken massing into lengths of approximately fifty (50) feet or less along all sides of the building. Projections from the facade can be used as an alternate approach.

Along any public street frontage the building design should include windows, arcades, awnings or other acceptable features along at least sixty (60) per cent of the building length. Arcades and other weather protection features shall be of sufficient depth and height to provide a light-filled and open space along the building frontage. Architectural treatment, similar to that provided to the front facade shall be provided to the sides and rear of the building to mitigate any negative view from any location off-site and any public area (e.g. parking lots, walkways, etc.) on site.

b. Detail features. The building shall include architectural features that contribute to visual interest at the pedestrian scale and reduce the massive aesthetic effect by breaking up the building wall, front, side, or rear, with color, texture change, wall offsets, reveals, or projecting ribs.

c. Roofs. The roof design shall provide variations in rooflines and add interest to, and reduce the massive scale of, large buildings. Roof features shall complement the architectural and visual character of adjoining neighborhoods. Roofs shall include two (2) or more roof planes. Parapet walls shall be architecturally treated to avoid a plain, monotonous look.

d. Materials and color. The buildings shall have exterior building materials and colors that are aesthetically pleasing and compatible with materials and colors that are used in adjoining neighborhoods. This includes the use of high-quality materials and colors that are low reflective, subtle, neutral, or earth tone. Certain types of colors shall be avoided such as

fluorescent or metallic although brighter colors in limited quantities as building trims and as accents may be considered at the discretion of the Building Official.

Allowed building materials include:

1. Brick
2. Natural stone
3. Split-face block / concrete masonry (CMU)
4. Natural wood and/or cement based artificial siding
5. High grade stucco
6. Glass

Construction materials such as tilt-up concrete, smooth-faced concrete block, prefabricated steel panels, and other similar materials shall be avoided unless the exterior surface is covered with an acceptable architectural treatment.

e. Entryways. The building design shall provide design elements which clearly indicate to customers where the entrances are located and which add aesthetically pleasing character to buildings by providing highly-visible customer entrances.

f. Screening of mechanical equipment. Mechanical equipment shall be screened to mitigate noise and views in all directions. If roof-mounted, the screen shall be designed to conform architecturally to the design of the building either with varying roof planes or with parapet walls. A wood fence or similar treatment is not acceptable.

g. Architectural unity. All buildings on the same site shall architecturally unify. This applies to new construction, additions and remodeling. Architectural unity means that buildings shall be related in architectural style, color scheme, and building materials.

h. Signage. Sign construction materials, colors, and finishes shall be consistent with the associated buildings. No billboards are allowed on the site.

6.85. Site design and relationship to surrounding community

a. Vehicular access. The use shall provide safety and protection to adjacent residential uses by having motor vehicles access only from an arterial, major road or highway.

b. Utilities. All new utilities shall be placed underground.

c. Environmental Standards

1. The project shall not cause erosion, flooding, sedimentation, or increase the rate of runoff from the site. Provision shall be made for attenuation of runoff pollutants. The applicant shall supply pre and post development runoff calculations, performed by a certified civil engineer, with application for site plan review.

2. The project shall be designed to minimize the destruction of wetlands, unique natural features, wildlife habitat, and rare or endangered species. Special effort shall be made to maintain wetlands, wetland buffer zones and corridors between wetlands and wooded uplands.

d. Buffers. The use shall provide visual and noise buffers as necessary to protect nearby residential uses. No other uses, such as, but not limited to, parking or storage, are permitted

within the landscape buffer area except pedestrian amenities. The requirements of Section 6.63 shall apply.

e. Outdoor sales. Areas for outdoor sales of products may be permitted if they are extensions of the sales floor into which patrons are allowed free access. Such areas shall be incorporated into the overall design of the building and the landscaping and shall be permanently defined and screened with walls and/or fences. Materials, colors and design of screening walls and/or fences shall conform to those used as predominant materials and colors on the building. If such areas are to be covered, then the covering shall be similar in materials and colors to those that are predominantly used on the building façade.

No product such as fertilizers, insecticides, herbicides, cement, etc, containing toxic chemicals shall be stored in any uncovered outside location where they might enter the storm water drainage system in the event of any spillage, breakage or tearing of container. Outdoor storage sheds and containers shall be kept behind the principal building and shall be screened to eliminate visibility from adjacent property or public right of way.

f. Parking. Parking areas shall be distributed around large buildings in order to shorten the distance to other buildings and public sidewalks, and to reduce the scale of large paved surfaces. No more than sixty (60) percent of parking area shall be located in front of the principal building. Landscaping shall be used to define parking areas, primary vehicular drives and pedestrian areas. One (1) parking space shall be provided for every three hundred (300) sq. ft. of gross enclosed floor area. No single parking area shall exceed 120 spaces unless divided into two or more sub-areas by a building, internal landscaped street, or landscaped pedestrian way. Decorative, commercial-quality, bicycle racks, cart return areas, benches and trash receptacles shall be required and shall be approved by the Building Official. Landscaped islands shall be placed at the ends of long rows of parking spaces. For out parcels, no more than 20 percent of the parking shall be located between the building front and the adjacent right-of-way.

g. Pedestrian flows. The project shall provide pedestrian accessibility, safety, and convenience to reduce traffic impacts and enable the development to project a friendly inviting image. Sidewalks at least six (6) feet wide shall be provided along all sides of the lot that abut a public street. Continuous internal walkways, no less than five (5) feet in width shall be provided from the public sidewalk or right-of-way to the principal customer entrance of all principal buildings on the site. All internal walkways shall be distinguished from driving surfaces through the use of durable, low maintenance surface materials such as pavers, bricks or scored concrete to enhance pedestrian safety and comfort, as well as the attractiveness of the walkways. Internal walkways remote from the building shall be a minimum of five (5) feet wide and provide a minimum of six (6) feet of landscaped area parallel to the walkway. Said landscaped area shall contain shade trees a maximum of thirty (30) feet on center. Where parking spaces abut internal walkways wheel stops shall be provided to prevent vehicular encroachment over the walkway or landscaped area.

Landscaped strips and islands may be constructed at or below the grade of the parking surface so as to accept surface water runoff. Where walkways and landscaped areas are not raised and curbed, they shall be defined by wheel stops or other protective devices.

Walkways shall also connect the store to transit stops on or off-site and to nearby residential neighborhoods. Walkways shall be provided along the full length of any

building where it adjoins a parking lot. Internal pedestrian walkways shall provide weather protection features such as awnings or arcades within 30 feet of all customer entrances. Alternative design solutions for these pedestrian-circulation requirements that meet and exceed the intent and purpose of this section and this ordinance may be approved by the Board of Zoning Adjustment.

h. Central features and community spaces. The project is to provide attractive and inviting pedestrian scale features, spaces, and amenities. Entrances and parking lot locations shall be functional and inviting with walkways conveniently tied to logical destinations. Transit stops and/or customer drop-off/pick-up points shall be provided and integrated into the design and should not conflict with traffic lanes or pedestrian paths. Shelters with seating shall be provided at transit stops. Special design features such as towers, arcades, porticos, light fixtures, planter walls, seating areas, and other architectural features that define circulation paths and outdoor spaces shall anchor pedestrian ways. Examples are outdoor plazas, patios, courtyards, and window shopping areas. Each development should have at least two of these areas.

i. Delivery, loading, and trash collection, removal or compaction. Delivery, loading, and trash operations shall be designed and located to mitigate visual and noise impacts to adjoining residential neighborhoods. If there is a residential use or residentially zoned property adjacent to the site, such operations shall not be permitted between 10 p.m. and 7 a.m. For good cause shown, the Planning Commission may permit deliveries at additional times provided the applicant submits evidence that sound barriers between all areas for such operations effectively reduce emissions to a level of forty-five (45) dB or less, as measured at the lot line of any adjoining property.

All delivery, loading, and trash collection, removal or compaction areas that are not within an enclosed building must be screened or recessed so that they are not visible from public streets, public sidewalks, internal pedestrian walkways, or adjacent residential properties.

j. Outdoor lighting. The applicant must provide an outdoor lighting plan which provides information on how outdoor lighting will be accomplished to minimize impacts on adjacent properties or roadways. This can be accomplished by aiming the lights down and placing hoods on them. The light element should not protrude below the lower edge of the hood. To minimize any indirect overflow of light on adjacent residential properties, the height of any proposed parking lot light standard should be as short as possible and should stair step down to a lower height when close to residential uses or residentially zoned properties.

k. Landscaping. Each parking area shall be surrounded by a ten-foot wide landscaped area around its edge. Shade trees are also required in the parking areas, with the amount and placement to be determined through consultation with the City Horticulturist at the time of site plan review. In addition, if a lot contains over one hundred (100) parking spaces, an area of not less than twenty (20) feet wide across any side of the site visible from the public right-of-way or adjacent property must be landscaped and screened with berms, hedges, and/or walls at least six (6) feet in height. All requirements of Section 6.61 shall apply.

l. Multi-tenant structures. Where principal buildings contain additional, separate stores which occupy less than 30,000 square feet of gross floor area, with separate, exterior customer entrances:

1. The street level façade of such stores shall be transparent between the height of 3 feet and 7 feet above the grade of the sidewalk for no less than 60% of the horizontal length of the building facade for each such store.

2. No window shall consist of reflective glass.

3. Along each façade with multiple exterior customer entrances, there shall be a sidewalk a minimum of eight (8) feet wide connecting all entryways. At least sixty (60) percent of said facade shall include a canopy, arcade, or other architectural and functional overhang that extends from the facade to a minimum of six (6) feet over the sidewalk.

6.86. Maintenance of Vacant Buildings

The following conditions shall also apply to Property Owners of any vacant structure where gross enclosed floor space equals or exceeds 65,000 square feet, regardless of when the building was erected:

a. The Property Owner will maintain the exterior of the building so as to keep the appearance similar to that when the building was fully occupied.

b. The Property Owner will maintain the landscaped areas in accordance with landscape plans approved by the City and in the same condition as such areas were maintained when the store was open to include, but not limited to adequate water and weeding.

c. The Property Owner will maintain the parking area in the same condition as such area was maintained when the store was open.

d. The Property Owner will maintain the cleanliness of the entire site by removing at least weekly any trash, rubbish, or other debris deposited or accumulated on the site.

6.87 Approval

Compliance with these regulations shall initially be determined by the Building Official or Horticulturist. In the event of a dispute between the Building Official or Horticulturist and the applicant as to what constitutes compliance, the applicant shall have the right to appeal to the Board of Zoning Adjustment.

This page is intentionally left blank

**ARTICLE SEVEN
ADMINISTRATION AND ENFORCEMENT**

Section 7.1. Administration

7.11. Administration

The provisions of this ordinance shall be administered by the Eufaula City Council in accordance with the authority granted by Section 11-52-1 et seq. of the 1975 Code of Alabama, as amended.

7.12. Administrator

The Eufaula City Council shall designate a Zoning Administrator to work in conjunction with the Building Inspector to effect proper administration of this Ordinance. The Zoning Administrator and/or Building Inspector shall have the right to enter upon any premises during a reasonable period of time prior to the issuance of a Certificate of Occupancy for the purpose of making inspections of the building or premises necessary to carry out his/her duties in the administration and enforcement of this ordinance.

Section 7.2. Enforcement

7.21. Building Permit

It shall be unlawful to commence the excavation for, the construction of, placement of, or erection of any building or other structure, including accessory structures, or to store building materials or erect temporary field office, or to commence the moving, alteration, or repair (except repairs not changing the character of the structure and not exceeding \$1,000 in cost, or painting or wallpapering) or any structure, including accessory structures, until the Zoning Administrator and Building Inspector have issued for such work a building permit including a statement that the plans, specifications and intended use of such structure in all respects conform with the provisions of this Ordinance. Except on the written order of the Board of Adjustment, no building permit shall be issued for any building or accessory structure where the erection, placement, construction, addition, alteration or use thereof would be in violation of any of the provisions of this Ordinance. Application for a building permit shall be made to the Zoning Administrator on forms provided for that purpose.

7.22. Application Requirements

7.221. It shall be unlawful for the Zoning Administrator to approve any plans and for the Building Inspector to issue a building permit for any placement, erection, excavation or construction of a building and/or accessory structure until he has inspected such plans in detail and found them in conformity with this Ordinance. To this end, the Zoning Administrator shall require that every application for a building permit for the placement, erection, excavation, construction, use of land, moving or alteration be accompanied by a plan or plat, drawn to scale, showing:

- a. The location, shape, area and dimensions of the lot.
- b. The location, dimensions, height and bulk of the structures to be erected, altered or moved and any building or other structures already on the lot.
- c. The existing and intended use of all such buildings or other structures.

- d. The proposed number of dwelling units, occupants, employees or other similar users.
- e. The setback, side yards, open spaces, parking spaces and other such requirements of the applicable zoning district.
- f. Any other information deemed necessary by the Zoning Administrator to determine and provide for the enforcement of this Ordinance.

7.222. If the proposed placement, erection, excavation, construction, moving, or alteration as set forth in the application is in conformity with the provisions of this ordinance, the Building Inspector may issue, upon recommendation of the Zoning Administrator, a building permit if the applicant is otherwise qualified accordingly. If an application for a building permit is not approved, the Zoning Administrator shall state in writing on the application the cause for such disapproval. Issuance of a building permit shall in no case be construed as waiving any provision of this ordinance.

7.23. Voiding a Building Permit

7.231. A building permit issued in violation of the ordinance is subject to revocation by action of the Board of Adjustment upon the recommendation of the Building Inspector and the Zoning Administrator. However, in deciding whether or not any issued building permit should be revoked, the Board of Adjustment is directed to consider the reasons behind the improper issuing of the building permit. If the holder of said permit is found not to have materially contributed to the mistake and is found to be substantially without fault, and provided further that the holder of the building permit has in good faith substantially prejudiced his position in reliance on said building permit, then said permit should not be revoked even though it was issued in violation of this ordinance, except in most extreme circumstances a danger, present or future, to the public welfare and safety.

7.232. The Zoning Administrator shall make every reasonable effort to notify by certified mail a holder of a building permit which is liable for voiding action before voidance is actually declared by notifying by certified mail at the address given on the application form of the recommendation for revocation and the date, place, and time said recommendation will be heard by the Board of Adjustment. Any action taken by the permit holder after said notification shall be deemed taken at the risk of the permit holder and shall not be considered by the Board of Adjustment in deciding whether or not to revoke under the section.

7.233. Any building permit granted under this Section shall become null and void within one (1) year from the date of issuance of the permit. Extensions for specified periods and documented in writing may be made if the proposed development or construction has passed the first building inspection.

7.234. Notice shall be deemed received when a certified letter is mailed, postage paid, to the address so designated on the permit application.

7.24. Inspection

7.241. The construction or usage affected by any building permit shall be subject to a minimum of two (2) inspections: The first, when the foundation has been completed and

building lines have been established; and second, when the building or structure has been completed and ready for occupancy.

7.242. It shall be the duty of the holder of the permit to properly notify the Building Inspector as to the time when the construction will be ready for inspection. Failure to make proper notification of the time for such inspection shall automatically cancel the permit, requiring the issuance of a new permit before construction may proceed or occupancy may be permitted.

7.25. Certificate of Occupancy

7.251. No land or building or other structure or part thereof hereafter erected, moved, or altered in its use shall be used until the Zoning Administrator of the City shall have issued a Certificate of occupancy stating that such land or structure or part thereof is found to be in conformity with the provisions of this ordinance.

7.252. Within three (3) days after the owner or his agent has properly notified the Zoning Administrator that a building or premises or part thereof is ready for occupancy or use, it shall be the duty of the Zoning Administrator to make a final inspection thereof, and to issue a Certificate of Occupancy if the building or premises or part thereof is found to conform with the provisions of this ordinance or, if such certificate is refused, to state the refusal in writing with the cause.

7.26. Penalties

7.261. Any person violating any provision of this ordinance shall be fined upon conviction not less than fifty dollars (\$50.00) nor more than two hundred and fifty dollars (\$250.00) and costs of court for each offense. Each day of such offense shall be a separate offense.

7.27. Remedies

7.271. In case any building or other structure is erected, constructed, reconstructed, altered, repaired, converted or maintained, or any building, structure or land is used in violation of this Ordinance, the Zoning Administrator or any other appropriate authority or any adjacent or neighboring property owner, who would be especially damaged by such violation, in addition to other remedies, may institute an injunction, mandamus or other appropriate measure to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use to correct or abate such violations or to prevent occupancy of such building, structure or land.

This page is intentionally left blank

ARTICLE EIGHT BOARD OF ADJUSTMENT

In order that the objectives of this ordinance may be more fully and equitably achieved, and that there shall be provided a means for competent interpretation of this ordinance, and that adequate but controlled flexibility may be provided in the application of this ordinance, and that the health, safety and welfare of the public may be secured and justice be done, there is hereby established a Board of Adjustment in accordance with the authority granted, governed and controlled by the Code of Alabama, 1975, Section 11-52-80, et seq., as amended.

Section 8.1. Establishment and Membership of the Board of Adjustment

8.11. Establishment and Appointment

A Board of Adjustment is hereby established. The Board shall consist of five (5) members, each to be appointed for a term of three (3) years by the City Council except that in the first instance one member shall be appointed for a term of three years, two for a term of two years, and two for a term of one year. Members shall be eligible for reappointment. Vacancies shall be filled for the unexpired term of any member whose term becomes vacant.

8.12. Supernumerary

In addition to the five (5) regular members, two (2) supernumerary members shall be appointed to serve on such board at the call of the Chairman, only in the absence of regular members, and while so serving have and exercise the power and authority of regular members, Such supernumerary members shall be appointed to serve for three (3) years and shall be eligible for reappointment.

8.13. Removal

Each member may be removed for cause by the City Council upon written charges and after a public hearing.

8.14. Vacancies

Vacancies shall be filled for the unexpired term of any member whose term becomes vacant.

Section 8.2. Meetings, Procedures and Records

8.21. Meetings

Meetings of the Board shall be held at the call of the Chairman and at such other times as the Board may determine. Such Chairman, or in his absence the acting Chairman, may administer oaths and compel the attendance of witnesses. All meetings of the Board shall be open to the public.

8.22. Procedures

The Board shall adopt and publish its own rules of procedure and keep minutes of its proceedings, showing the vote of each member upon each question or if absent or failing to vote, indicating such fact, and shall keep records of its examinations and of other official actions, all of which shall be immediately filed in the office of the Board and shall be a public record.

Section 8.3. Appeals

8.31. Appeals, How Taken

8.311. An appeal may be taken to the Board by any person aggrieved, or by an officer, department, board or bureau of the City affected by any decision of the Zoning Administrator and/or Building Inspector.

8.312. Such appeal shall be taken within 15 days of the date of any decision by filing with the Circuit Court and with the Board of Adjustment a notice of appeal specifying the grounds thereof.

8.32. Stay

The officer from whom the appeal is taken shall transmit forthwith to the Board all papers constituting the record upon which the action appealed was taken. An appeal stays all proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certified to the Board of Adjustment after the notices of appeal shall have been filed with him, that by reason of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life or property, In such a case proceedings shall not be stayed otherwise than by restraining order which may be granted by the Board of Adjustment or by a court of record on application or notice to the officer from whom the appeal is taken and on due cause shown.

Section 8.4. Hearing

8.41. Hearing

8.411. The Board of Adjustment shall fix a reasonable time for the hearing of the appeal, give public notice thereof, as well as due notice to the parties in interest, and decide the same within a reasonable time. During the hearing any party may appear in person or by agent or by attorney.

8.412. The following shall serve as a time frame for all applications:

1. Publish public notice in Accordance with section 11.216 seven (7) days prior to hearing date.
2. Post, in a conspicuous place on the property involved, a notice of pending action; such posting is to take place at least ten (10) days prior to the public hearing date.
3. Mailing or delivering a notice thereof to the owners of every lot fronting on the same street within 250 feet of the lot or building in question, and if such lot or building is a corner lot, to every owner of a lot on the side street within 250 feet of such lot or building.

Section 8.5. Duties and Powers

8.51. Duties and Powers of the Board of Adjustment

The Board of Adjustment shall have the following powers:

8.511. To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by the Zoning Administrator and/or Building Inspector in the enforcement or administration of this ordinance, such as:

Hear and decide upon requests for the interpretation of the provisions of the ordinance; or

Determine the precise location of boundary lines between zoning districts when there is dissatisfaction with a decision upon said subject made by the Zoning Administrator; or

Classify a use which is not specifically mentioned along with a comparable permitted or conditional use for purpose of the use regulations of any zoning district; or

Decide the validity of the issuance of any building permit, or

Determine the off-street parking and loading space requirements of any use which is not mentioned in Article Six, either by classifying it with one of the groups listed in the schedule, or by analysis of the specific need.

8.512. To hear and decide special exceptions to the terms of the ordinance upon which such Board is required to pass under such Ordinance.

a. Before any permit for a special exception is issued, the Board shall make written findings certifying compliance with the following conditions:

Shall not be contrary to public interest and will insure that the spirit of the Zoning Ordinance shall be observed.

Shall not permit the establishment within a district any use which is prohibited.

Will not cause a substantial adverse effect to property or improvements in the vicinity or in the districts in which the applicant is located.

b. Conditions and Safeguards: In granting special exceptions the Board may require conditions and safeguards as deemed appropriate to insure the intent of the Zoning Ordinance. Such conditions may relate to provisions for:

1. Purpose. The proposed use shall be consistent with the City's development objectives established by the Master Plan/Comprehensive Plan.

2. Compatibility. The proposed use shall be in the best interest of the properties in the surrounding area and the general community at large. The proposed use will be reviewed as to its relationship to and effects on the general public with respect to pollution of air, land and water, noise, potential of hazards and congestion, illumination of glare, and restrictions to natural light and circulation of air.

3. Suitability. The proposed use shall be suitable for the property in question and shall be designed, constructed, operated, and maintained suitably for the anticipated activity.

4. Serviceability. The proposed use shall have adequate and available service to all appropriate utilities and facilities such as sanitary storm sewer, water, trash, and garbage collection, etc.

5. Accessibility. The proposed use shall provide adequate ingress and egress, interior circulation of both pedestrian and vehicles, off-street parking, and accessibility to the existing or proposed City street system.

6. Conformity. The proposed use shall be in conformance with all applicable requirements of this Zoning ordinance, where applicable, in accordance with Section 6.5, Site Plan Review and Approval.

c. Interpretation of Uses for Special Exceptions: For uses not specifically identified as uses permitted on appeal in the Zoning Ordinance, the Board shall define such uses in terms of their performance, and classify such uses on the basis of their similarity and relation to previously identified uses.

d. Where no similar uses have been specified as permitted on appeal, the use shall be deemed prohibited. In such instances, the Board may, if deemed appropriate, initiate a request for amendment of the Zoning ordinance for such use and shall transmit such request to the City Council for consideration.

8.513. To authorize upon appeal in specific cases such variance from the terms of this ordinance as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of this ordinance will result in unnecessary hardship, and so that the spirit of the ordinance shall be observed, public safety secured and substantial justice done.

Before any permit for a variance is issued, the Board shall make written findings certifying compliance with the following specific rules:

a. That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same district;

b. That literal interpretation of the Zoning Ordinance would deprive the applicant, of rights commonly enjoyed by other properties in the same district under the terms of the Zoning ordinance;

c. That the special conditions do not result from actions of the applicant (self-imposed hardship);

d. That granting of the variance will not confer any special privilege on the applicant that is denied by this ordinance to other lands, structures, or buildings in the same district;

e. That granting of the variance is in harmony with the intent and purposes of the Zoning Ordinance;

f. That the variance will not adversely affect surrounding property, the general neighborhood, or the community as a whole;

g. That no nonconforming use of neighboring lands, structure, or buildings in the same district, and no permitted or nonconforming use of land structures, or buildings in other districts shall be considered grounds for the issuance of a variance.

h. That the variance will not allow the establishment of a use not permissible under the terms of the Zoning Ordinance in the district involved, or any use expressly or by implication prohibited by terms of the ordinance in said district.

8.514. The Board of Adjustment may grant a variance from the terms of this ordinance for the placement of a mobile home outside of those zones where they are permitted or permitted on appeal. Such applicants shall apply in writing and conform to the guidelines as set forth in Section 8.513 (a) through (h). The placement of a mobile home under these general guidelines shall conform to the character of the neighborhood and exhibit the same type of housing. At least one of the following conditions must exist in order for the Board of Adjustment to grant a variance for a mobile home placement under this section:

1. Age, infirmity, or medical condition requires that an immediate family member live in close proximity on the same lot. The variance is to be reviewed on an annual basis.

2. An owner of a single family lot requires temporary housing during construction of a house or major repair of a house due to damage. The variance shall not exceed a one-year period.

3. An owner of a single family lot requests for placement of a mobile home due to destruction of his home through fire or flood damage.

4. Notwithstanding restrictions contained in this ordinance to the contrary limiting one dwelling on each residential lot or parcel, the Board may allow the placement of a second mobile home on a lot or parcel located within an FAR district if an owner of a single family parcel or lot not less than 34,000 square feet in size has given written permission to an immediate family member to place a second mobile home for said immediate family member's use on the parcel or lot. For purpose of this exception, an immediate family member shall be defined as a spouse, son, step-son, daughter, step-daughter, mother, father, grandparent, grandchildren, sister, brother, mother-in-law, father-in-law, sister-in-law, brother-in-law, son-in-law, and daughter-in-law. Provided however no more than two mobile homes may be placed on any one acre of land under this exception. An owner requesting an exception under this provision must provide with their application a copy from the Barbour County Revenue Commission of the tax plat of the area involved together with the parcel I.D. number. All other restrictions and requirements of this ordinance shall apply. No part of any structure so allowed shall be located within forty (40) feet of any other structure or mobile home.

In the event the family member for whom this allowance was made ceases to dwell in said mobile home, the allowance shall terminate and a new application must be made to the Board. If the Board denies the new application or if a new application is not made, the second mobile home must forthwith be removed from the property.

Mobile homes shall not be permitted in Historic Preservation Areas as defined in Section 12.2 of this Zoning Ordinance.

8.515. Action by the Board

In exercising the powers mentioned in Section 11-52-80 of the 1975 Code of Alabama, as amended, such board may, in conformity with the provisions reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from and may make such order, requirement, decision or determination as ought to be made and, to that end shall have all the powers of the officer from whom the appeal is taken. The concurring vote of four members of the board shall be necessary to reverse any order, requirement, decision or determination of any such administrative official or to decide in favor of the applicant on any matter upon which it is required to pass under any such ordinance or to effect any variation in such ordinance.

(a) The Board of Adjustment shall not be required to return the original papers acted upon by it, but it shall be sufficient to return certified or sworn copies thereof or of such portions thereof as may be called on by such writ. The return shall concisely set forth such other facts as may be pertinent and material to show the grounds of the decision appealed from and shall be verified.

Section 8.6. Appeals from Action of the Board of Adjustment

8.61. Any party aggrieved by any final judgment or decision of the Board of Adjustment may within fifteen (15) days thereafter appeal therefrom to the Circuit Court by filing with the Board a written notice of appeal specifying the judgment or decision from which appeal is taken. In case of such appeal, the Board shall cause a transcript of the proceedings in the cause to be certified to the Court in which such appeal is taken and the cause in such court be tried de novo.

Section 8.7. Conflicting Regulations

Whenever the regulations made under authority of 11-52-1 et al require a greater width or size of yards or courts or other open spaces or require a lower height of buildings or a lesser number of stories or require a greater percentage of lot be left unoccupied or impose other higher standards than are required in any other statute or local ordinance or regulations, the provisions of the regulations made under authority of this article shall govern.

Wherever the provisions of any other statute or local ordinance or regulation require a greater width or size of yards, courts or other open spaces or require a lower height of buildings or a lesser number of stories or require a greater percentage of lot to be left unoccupied or impose other higher standards than are required by the regulations made under authority of this article, the provisions of such statute or local ordinance or regulation shall govern.

ARTICLE NINE AMENDMENT

Section 9.1. Zoning Amendment Petition

9.11. The City Council of the City of Eufaula, Alabama, may amend, supplement, change, modify or repeal the regulations, restrictions, boundaries of districts or any provision of this Ordinance. Any member of the City Council may introduce such amendment; or any official, board, commission or any other person may present a petition to the City Council requesting an amendment or amendments to this Ordinance.

Section 9.2. Planning Commission Review

9.21. No such amendment shall become effective unless such be first submitted for approval, disapproval, or recommendations to the Planning Commission. If the Planning Commission within thirty (30) days disapproves an amendment after such submittal, it shall require the favorable vote of four (4) members of the City Council to become effective. If the Planning Commission neither approves nor disapproves such proposed amendment within thirty (30) days after such submittal, the proposed amendment shall be deemed as favorable.

9.22. The Planning Commission upon its own initiative may hold public hearings, public notice of such shall be given, for the consideration of any proposed amendment to the provisions of the ordinance, or to the Official Zoning Map, and then report its approval, disapproval or recommendations to the City Council.

Section 9.3. Public Hearing on Proposed Amendment

9.31. Upon the introduction of any amendment to this Ordinance or upon the receipt of a petition to amend this ordinance, the City Council shall publish notice of such request for an amendment, together with a notice of the time and place set for public hearing by the City Council on the requested change. Said notice and the proposed amendment shall be published in a paper of general circulation in the manner provided for in Section 11-52-77, 1975 Code of Alabama, as amended.

Section 9.4. Time Limit

9.41. After the City Council has voted on the application for rezoning or other amendment to the Zoning ordinance, another application for rezoning of the same tract or parcel of land, or change of the same portion of the Zoning Ordinance will not be considered until a period of one (1) year has elapsed from the date of such action by the City Council. Provided; however, that the City Council may adjust this time period if, in the opinion of a majority of the City Council, an unusual situation or circumstance exists.

Section 9.5. Filing Fee

9.51. Fees for said filing of applications to be determined by Planning Commission Policy. A petition or applicant shall be defined as "an owner or owners of several parcels of property requesting the same zone change at the date of their application". Petitioners submitting requests for property not contiguous to each other will be treated as separate submissions and subject to more than one filing fee charge, No petition or application shall be deemed filed for consideration until such fee has been paid.

This page is intentionally left blank

ARTICLE TEN
LEGAL STATUS PROVISIONS

Section 10.1. Interpretation

10.11. In interpreting and applying the provisions of this ordinance, they shall be held to be the minimum requirements for the promotion of the public safety, health, convenience, comfort, prosperity, and general welfare.

Section 10.2. Conflict with Other Ordinances

10.21. In case of a conflict between this ordinance or any part thereof, and the whole or part of any existing or future ordinance of the City of Eufaula, the most restrictive shall in all cases apply.

Section 10.3. Validity

10.31. If any Section, Subsection, Clause, Provision or portion of this Ordinance shall be held to be invalid or unconstitutional by any court of competent jurisdiction, such holding shall not affect any other Section, Subsection, or part thereof of this Ordinance which is not of itself invalid or unconstitutional.

Section 10.4. Penalties and Remedies

10.41. Penalties: In case any building or structure is demolished, erected, placed, constructed, reconstructed, altered or repaired, converted or maintained, or any structure or land is used in violation of any provision of this ordinance or any amendment hereto hereafter enacted, or in the event of the violation by any property owner(s) of the provisions of this ordinance or any such amendment, such violation shall be held to be a municipal offense the charge for such violation hereof to be brought in and determined by the Recorder's Court of Eufaula, Alabama, or the Municipal Court of Eufaula, Alabama, and the offender, upon conviction, shall be punished by a fine of not more than two hundred fifty dollars (\$250.00) or imprisoned for not more than ninety (90) days, either or both; and each day that any structure or land is used in violation of this ordinance shall constitute a separate offense.

10.42. Civil Remedies: In any case in which any building or structure is or is proposed constructed, reconstructed, or any land is, or which is this Ordinance or amendment Eufaula, Alabama, the legal owner of real estate within to be demolished, erected, altered, maintained, placed, or used, proposed to be, used in violation of hereto adopted by the Council of counsel of such municipality or any the District in which such building, structure or land is situated may, in addition to other remedies provided by law, institute injunction, abatement or any appropriate action or actions, proceeding or proceedings, to prevent, enjoin, abate or remove such unlawful erection, placement, construction, reconstruction, alteration, maintenance or use.

This page intentionally left blank

ARTICLE ELEVEN DEFINITIONS

Section 11.1. General Terms

11.11. For the purposes of this Ordinance, certain terms or words used herein shall be interpreted as follows:

11.111. The word "person" includes a firm, association, organization, partnership, trust, company, or corporation as well as an individual.

11.112. The present tense includes the future tense, the singular number includes the plural, and the plural number includes the singular.

11.113. The word "shall" is mandatory, the word "may" is permissive.

11.114. The words "used" or "occupied" include the words "intended", "designed", or "arranged to be used or occupied".

11.115. The word "lot" includes the words "plot" or "parcel".

Section 11.2. Definition of Words and Phrases

11.21. Definition of Words and Phrases Beginning with the Letter "A".

Accessory Use or Structure: A use or structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure. This definition shall further include satellite antennas, which are defined as all parabolic reflectors, spherical sections, antenna arrays, "dishes", and other devices designed or utilized for the purpose of receiving electromagnetic communications from transmitters not located on the earth's surface or for the purpose of transmitting electromagnetic communications to receivers not located on the earth's surface.

Alley: Any public or private way set aside for public travel, less than thirty (30) feet in width.

Alteration or Altered: As applied to a building, or structure, means a change or re-arrangement in the structural parts or in the exit facilities or an enlargement, whether by extending on a side or increasing in height, or in the moving from one location or position to another.

Apartment House: A building for use as and including at least three (3) independent dwelling units.

Automobile Storage or Standing Space: An area reserved and suitable for automobile storage, standing or parking space. Each space shall be a minimum of two hundred (200) square feet in area. Such area shall be provided with a safe vehicular access to a public street or alley.

11.22. Definition of Words and Phrases Beginning with the Letter "B".

Boarding House: A building other than a hotel, cafe, or restaurant, where, for compensation, meals are provided for three (3) or more persons.

Buildable Area: The portion of a lot remaining after required yards have been provided.

Building: Any structure constructed or used for residence, business, industry or other public or private purposes, or accessory thereto, and including tents, lunch wagons, dining cars, trailers, billboards, signs, and similar structures whether stationary or movable.

Accessory Building: A subordinate building located on the same lot as a principal building and clearly incidental and subordinate to the principal, including, but not limited to, private garages, carports, utility buildings, tool sheds, noncommercial greenhouses, etc., Any portion of a principal building devoted or intended to be devoted to an accessory use is not an accessory building, At no time may an accessory building be used for living quarters.

Attached Buildings: A building which has two or more party walls in common with adjacent buildings.

Building Area: That portion of the lot occupied by the main building, including porches, carports, accessory structures, or other structures,

Building Coverage: That percentage of the plot or lot covered by the building area.

Building Height: A vertical distance measured from the elevation of a proposed finished grade to the highest point of the roof for flat roofs, and to the deck lines of a mansard roof, and to the mean height between eaves and ridge for gable, hip, or gambrel roof.

Detached Building: A building with no party walls.

Principal Building: A building in which is conducted the principal use of the lot on which it is situated, In any residence district any dwelling shall be deemed to be the principal building on the lot on which the same is situated.

Semi-Detached Building: A building which has only one party wall in common with an adjacent building.

Building Permit: A permit required by this Zoning Ordinance or the Building Code for the placement, erection, construction, alteration, razing or change of use of any structure or building.

Building Setback Line or Building Line: A line within and across a lot defining the required minimum yard between any structure and any Adjacent street line.

11.23. Definition of Words and Phrases Beginning with the Letter "C".

Car Title Pawn/Loan Business: a business other than a financial institution that operates under Title 5 of the Alabama Code, Chapter 19A Alabama Pawn Shop Act with a primary business activity of making small short-term consumer loans using the equity value of a car or other vehicle as collateral when the title to such vehicle is owned free and clear by the borrower. For the purpose of this ordinance, this definition shall not include a pawnbroker that is not engaged in a car title pawn business. *(Amended 10/6/14; Ord. 2014-10)*

Carport: A one-story structure attached to the principal building, open and to remain open to weather, to be used for the shelter of an automobile.

Cartway: The surface of a street or alley available for vehicular traffic or the area between curbs.

Change of Use: An alteration of a building, or change of use thereof existing within a building or on a lot to a new use which imposes other provisions of the Building Code or Zoning Code.

Condominium: A multi-unit dwelling, group of multi-unit buildings, townhouse complex, group of townhouse complexes, or any combination thereof, each of whose residents, known as unit owners, enjoys exclusive ownership of his individual apartment or dwelling unit holding fee simple title thereto, while retaining an undivided interest, as a tenant in common, in the common facilities and areas of the buildings and grounds which are used by all the residents.

Conversion Apartments: Any dwelling or other building 11.24 Definition of Words and Phrases Beginning with the Letter "D".

Dwelling: A house, apartment building, or other building designed or used primarily for human habitation. The word "dwelling" shall not include boarding or rooming house, motels, hotels or other structures designed for transient residence.

Dwelling, Single-Family: A detached residential dwelling unit other than a mobile home, designed for and occupied by one family only.

Dwelling, Mobile Home: A detached residential dwelling unit designed for transportation after fabrication on streets or highways on its own wheels at the site where it is to be occupied as a dwelling, complete and ready for occupancy except for minor and incidental unpacking and assembly operations, location on jacks or other temporary or permanent foundations, connections to utilities, and the like. A travel trailer or recreation vehicle is not to be considered as a mobile home.

DWELLING, Manufactured Home: A detached residential dwelling fabricated in an off-site facility after June 15, 1976 and transported to the building site for installation or assembly, bearing a label certifying that the home is built in compliance with the Federal Manufactured Housing Act of 1974 (USC 5401, ET SEQ.).

Dwelling, two-family: A detached residential building containing two dwelling units, designed for occupancy by not more than two families.

Dwelling, Multi-Family: A residential building designed for or occupied by three or more families, with the number of families in residence not exceeding the number of dwelling units provided.

11.25. Definition of Words and Phrases Beginning with the Letter "E"

Essential Community Facilities: The erection, construction, alteration, or maintenance by public utilities or municipal departments, or commissions, of underground or overhead gas, electrical, steam, or water transmission or distribution systems, collection, communications, supply or disposal systems, including poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, and other similar equipment and accessories reasonably necessary for the furnishing of adequate service by such public utilities or municipal departments or commissions, or for the public health or safety or general welfare.

Exterior Security Lighting Systems: (residential areas) Shall be so designed to reflect light away from neighboring properties, Not to be identified with the spot lighting used for security purposes.

11.26. Definition of Words and Phrases Beginning with the Letter "F".

Family: One (1) or more persons occupying a premises and living as a single, non-profit housekeeping unit. A family shall be deemed to include necessary servants.

Floor Area: The gross horizontal areas of all floors measured from exterior walls of the building. Basements and cellars shall not be included in the gross floor area.

Frontage, Street: All the property on one side of a street between two streets which intersects such street (crossing or termination measured along the line of a street, or if the street is dead-ended then all of the property abutting on one side between a street which intersects such street and the dead end of the street.

11.27. Definition of Words and Phrases Beginning with the Letter "G".

Garage, Private: An accessory building designed or used for the storage of a motor driven vehicle owned and used by the occupants of the building to which it is accessory.

Grade: The average of the finished ground surfaces adjacent to the exterior walls of the building.

Guest Home: A building arranged or used for rooming, with or without meals, but for compensation, designed as an accessory use to a single-family dwelling and in which no provision is made for cooking in any of the individual rooms or suites, A guest home must be owner-occupied with the owner of the structure residing permanently on the premises. No structural alterations shall be made to the building except as may be necessary for safety purposes, The parking requirements shall be the following: one off-street parking space for each guest room. All guest homes must meet the requirements of the State Health Department.

11.28. Definition of Words and Phrases Beginning with the Letter "H".

Hotel: Any building or portion thereof which contains at least ten (10) guest rooms intended for occupancy by individuals for compensation whether paid directly or indirectly.

11.29. Definition of Words and Phrases Beginning with the Letter "I".

None.

11.210. Definition of Words and Phrases Beginning with the Letter "J".

Junkyard: Shall include any lot or parcel of land on which is kept, stored, bought, or sold, articles commonly known as junk, including scrap paper, scrap metal, and used automobile bodies and parts.

11.211. Definition of Words and Phrases Beginning with the Letter "K".

Kennel or Stable: The use of any lot for keeping, boarding, or training for fee whether in special buildings or runways or not including but limited to dog and cat kennels and horse stables.

11.212. Definition of Words and Phrases Beginning with the Letter "L".

Lot:

Corner Lot: A lot with two adjacent sides abutting in streets or other public places which has an interior angle of less than 135 degrees at the intersection of the two street lines. A lot abutting in a curved street shall be considered a corner lot if the tangents to the curve at the points of intersection of the sub lot lines with the street line intersect at an interior angle of less than 135 degrees.

Double-Frontage Lot: A lot which extends from one street to another with frontage on both sides.

Lot Depth: The horizontal distance from the street line of a lot to its opposite rear lot line measured in the general direction of the side lot lines.

Lot Width: The distance measured between the side lot lines at the required building, setback line; in a case where there is only one side lot line, between such lot line and the opposite lot line.

Reverse Frontage Lot: A lot extending between and having frontage on an arterial or collector street and a local street with vehicular access solely from the latter.

Lot Lines: A line dividing one lot from another or from a street or any public place.

Rear Lot Line: Any lot line which is parallel to or within 45 degrees of being parallel to a street line, except for a lot line that is itself a street line and in the case of a corner lot, the owner shall have the option of choosing which of the two lot lines that are not street lines is to be, considered a rear lot line, In the case of a lot which is odd shaped, only the one lot line farthest from any street shall be considered a rear lot line. In the case of a triangular lot with no rear lot line, the distance between any point on the building and the corner lot of the farthest from the street shall be at least twice the normally required rear yard.

Side Lot Line: Any lot line which is not a street line or a rear lot line.

11.213. Definition of Words and Phrases Beginning with the Letter 'M'.

Major Auto Repair

Main Structure: A structure in which is conducted the principal use of the lot on which it is located. In any residential district any dwelling shall be deemed to be the principal building on the lot on which the same is situated and only one main structure shall be permitted per lot.

Modular Home: A manufactured single-family or multi-family dwelling, or an integral part, so constructed that it may be transported from manufacturing site to a permanent site to be permanently fixed to real estate, made up of one or more components and constructed with the same or similar electrical, plumbing, heating, and sanitary facilities as on-site constructed housing, and designed to meet the various construction codes that have been adopted by the City.

Motor Court: A building or group of buildings containing one or more guest rooms having separate outside entrances for each room or suite of rooms and for each of which rooms or suites of rooms automobile parking space is provided.

11.214. Definition of Words and Phrases Beginning with the Letter "N".

Nursing Homes: A licensed establishment which provides full-time convalescent or chronic care or both for three or more individuals who are not related by blood or marriage to the operator, and who, by reason of chronic illness or infirmity, are unable to care for themselves. No care for the acutely ill or surgical or obstetrical services shall be provided in such a home; a hospital shall not be construed to be included in this definition.

Nursery School: Any premises or portion thereof used for educational work or parental care of children of less than the age required for enrollment in the public school system.

11.215. Definition of Words and Phrases Beginning with the Letter "O".

None.

11.216. Definition of Words and Phrases Beginning with the Letter "P".

Payday Loan Business: a business other than a financial institution that operates under Title 5 of the Alabama Code, Chapter 18A Deferred Presentment Services Act with a primary business activity of making small consumer loans which are usually backed by postdated check or authorization to make an electronic debit against an existing financial account, with loan repayment typically due when the borrower's next paycheck is issued in order to reclaim the postdated check or cancel the electronic debit. For the purposes of this ordinance, a pay day loan business shall include cash advance service and rapid refund service. ***(Amended 10/6/14; Ord. 2014-10)***

Planned Unit Development: A large development consisting of one or more contiguous tracts of land which is planned and developed as an integrated unit conforming to the density requirements for the zone in which it is located but not necessarily to the individual lot size requirements.

Public Notice: Notice published in a newspaper of general circulation seven (7) days prior to the public hearing date and/or written notice to the address designated by any applicant. Such notice shall state the time and place of the hearing and the particular nature of the matter to be considered at the hearing. However, whereby required by State statute, notice shall be deemed as defined in said statute.

11.217. Definition of Words and Phrases Beginning with the Letter "Q".

None.

11.218. Definition of Words and Phrases Beginning with the Letters "R" and "S".

Rooming Houses: Any building or portion thereof that contains not less than three (3) or more than nine (9) guestrooms that are designed or intended to be used out for occupancy by individuals for compensation whether paid directly or indirectly.

Semi-Public Land Uses: Philanthropic and charitable land uses including: Y.M.C.A.'s, Y.W.C.A.'s, Salvation Army, churches and church related institutions, orphanages, human societies, private welfare organizations, non-profit lodges, and fraternal orders, hospitals, Red Cross and other general charitable institutions.

11.219. Definition of Words and Phrases Beginning with the Letters "T" through "Z".

Townhouse: A single-family residential building attached to a series of other single-family residential buildings by not more than two party walls, Townhouses shall be built in groups of not less than four or more than eight townhouses connected by party walls which shall have a minimum air space of one inch between each, As uses herein, townhouse refers to single-family residential buildings, as described above, intended for sale to individuals and families, and not to residential units intended for rental purposes, whatever their configuration, Townhouses shall be platted on their own individual lots.

Use: The purpose for which the land or a building or other structure is designed, arranged, or intended, or for which it is or may be occupied or maintained.

This page is intentionally left blank

ARTICLE TWELVE SPECIAL REVIEW PROCEDURES

The purpose of this Article is to insure adequate review of specific developmental schemes that have direct influence on neighboring or contiguous land use districts. This review is so intended to protect the private and public values and interest in residential and business districts.

Section 12.1. Planned Unit Developments

The intent of this section is to provide an opportunity for the best use of land, protection of valuable natural features in the community, and economical public services. The purpose of this provision is to encourage the unified development of tracts of land by permitting, within the confines of an overall density limitation, more creative and flexible concepts in site planning than would be possible through the strict application of requirements established in this Zoning Ordinance. When such feasibility is permitted, Planned Development project design and construction shall follow a carefully devised plan of development which shall be prepared in accordance with the standards, procedures and approvals herein prescribed.

12.11. The following classes of planned unit developments are established:

12.111. "A" (Fixed Dwelling) Planned Unit Developments

A group of two (2) or more fixed dwelling structures, together with other permitted uses, on a parcel of ground not less than ten (10) acres in area in single ownership, with not less than three hundred (300) feet of frontage on a public street which frontage shall serve as the principal means of access to the property.

"A" PUDs will be allowed in all districts.

12.112. "B" (Mobile Home) Planned Unit Residential Developments

Within the scope of the general purpose of Planned Developments, the purpose of this class is to recognize the increasing demand for the mobile home development type of residential area, and to provide for the appropriate development of such areas. It is intended to provide locational requirements and development standards which will lead to the development of stable and desirable mobile home developments, compatible with other uses in the vicinity.

Plans may be submitted for any parcel of land of five (5) acres or more in single ownership, zoned appropriately, for a mobile home planned unit development.

"B" PUDs will be allowed in MH, MHR, and FAR Districts.

"B" PUDs may be either mobile home parks with rental spaces and/or mobile homes, or mobile home subdivisions with ownership lots.

12.113. "C" Commercial Planned Unit Developments

Within the scope of the general intent of the Planned Developments, the purpose of this class is to recognize that tracts of land of considerable size can be developed, redeveloped, or renewed as integrated and harmonious units for commercial uses. The provisions of this ordinance may be applied to: any shopping center, retail structure or group of structures including those contained under one roof, having a total planned floor area of more than 13,000 square feet; any light industrial park or distribution warehouse of fifteen (15) acres; or heavy industrial park or distribution warehouse of twenty (20) acres.

12.12. General Regulations

The following general regulations shall apply to all Planned Unit Developments which:

12.121. Shall be in conformity with the Comprehensive Plan or portion thereof as it may apply.

12.122. Shall be consistent in all respects with the purposes and intent of this Zoning Ordinance.

12.123. Will advance the general welfare of the city and immediate vicinity.

12.124. Will provide, through desirable arrangement and design, benefits which justify the deviations from development standards which would otherwise apply.

12.125. If it is determined that the development is a subdivision according to the laws of Alabama or the ordinances of the City of Eufaula, it shall also be reviewed and approved according to the Subdivision Regulations of the City of Eufaula, Alabama.

12.13 General Development Regulations

The following development regulations shall apply to all Planned Unit Developments,

12.131. Provisions of residential districts as applicable shall be adhered to in all Planned Unit Developments. Zero lot line developments are permitted.

12.132. All land proposed in the project for residential use, including outdoor use of space, off-street parking, interior drives and other circulation ways, may be counted in complying with the density requirements.

12.133. For any single family or two family dwelling or any dwelling unit in a townhouse building there shall be a privately occupied area. This private space shall include the space occupied by such dwelling or dwelling unit, with adjoining open space assigned exclusively to such dwelling unit of not less than six hundred (600) square feet in addition to private parking area if any.

12.134. All open space not assigned to private occupancy as set forth above shall be assigned to the common use of all residents of the development, with such use assured in perpetuity. Assignment and development of such open spaces shall be as follows:

1. Access driveways.
2. Landscaped areas, comprising no less than ten (10) percent of all common open space required by this section, may include the following:
 - a. Pedestrian access walkways.
 - b. Children's play areas.
 - c. General landscaped areas, flower gardens and areas for passive recreation.
 - d. Swimming pools, including accompanying accessory structures, and areas for organized sports.
 - e. Any other areas suitable for the common enjoyment of the resident.

12.135. Every residential structure in a development shall be within two hundred (200) feet of a hard surfaced access drive no less than twenty (20) feet wide or a parking lot connected with such a drive. In addition, every dwelling or ground floor dwelling unit shall be directly accessible to service and emergency vehicles.

12.136. Private streets on common easements may be used to provide vehicular access to not more than thirty (30) dwelling units on any one such drive. In all other respects, the system of vehicular circulation for a development shall be provided by dedicated streets complying with the Subdivision Regulations.

12.137. Building spacing requirements should be based on the following factors:

1. Privacy: The minimum building spacing requirement is intended to provide privacy within the dwelling unit. Where windows are placed in only one of two facing walls or there are not windows, or where the builder provides adequate screening for windows, or where the windows are at such a height or location to provide adequate privacy, the building spacing may be reduced.

2. Light and Air: The building spacing provides one method of ensuring that each room has adequate light and air. Building spacing may be reduced where there are not windows or very small window areas and where rooms have adequate provisions for light and air from another direction.

12.14. Uses Permitted

12.141. Principal Uses

Dwelling units of a permanent nature, for ownership or rental. On-transient mobile homes are allowed in "B" PUDs.

Public parks and specialized recreation centers.

12.142. Uses Permitted on Appeal

1. Home Occupations

Facilities for use of residents of the development; for recreation, children's nursery, kindergarten, laundry or similar services, any similar facility.

2. Off-street Parking Lots or Garages

Stores of the "local family shopping" or "convenience nature provided (primarily), for the use, of the residents, in any development comprising three hundred (300) more dwelling units, with such commercial facilities subject to requirements in the C-1, Neighborhood Commercial District. Maximum area devoted to such commercial uses shall be one (1) acre or .05 percent of total acreage in the project, whichever is greater.

12.15. Other Requirements

12.151. Location Requirements: Each Planned Unit Development

1. Shall be free of objectionable environmental characteristics, such as poor drainage, air pollution, undue noise, unsightliness and similar problems, to the same degree as other residential area.

2. Shall be so located as to assure a maximum of compatibility with other types of development.

12.152. Open Space, Site Size and Density

1. Minimum Site Size: Ten (10) acres for fixed Planned Unit Development; five (5) acres for a mobile home Planned Unit Development.
2. Maximum Density: Fourteen (14) units per acre.
3. Property Line Setback: Forty (40) feet.
4. Minimum Usable Open Space: Twenty-five percent (25%)

12.16. Development Bonuses for Fixed Dwelling Developments

In order to encourage provision of innovative designs, lessen costs of providing public services, lower housing costs for individuals and encourage provision of amenities in small residential, commercial development, a schedule of development bonuses is set forth giving additional dwelling units for residential developments and additional amounts of floor area for other uses.

12.161. In exercising the development bonuses option, the following principles must be sustained:

1. Bonuses are only permitted in the specified districts.
2. For residential areas, the maximum permitted density within the zoning district cannot be exceeded.
3. Schedule of Development Bonuses: Residential Amenity Factor Bonus (Density)

Clustering of buildings 10% increase in dwelling units (d.u.'s).

Provision of plazas, malls, and other internal pedestrian systems
--15% increase in d.u.'s

Preservation of irreplaceable features (natural or man-made)
--10% increase in d.u.'s

Construction of portions of planned linear parks or bike systems
--10% increase in d.u.'s

Distinctive landscape or streetscape furnishing (e.g. signs, benches)
--15% increase in d.u.'s

Public facilities, including site, building or facility
--25% increase in d.u.'s space

Additional improved common open space
--10% of each, 10% of area added

12.17. Special Requirements for Mobile Home Developments

12.171. Park or Subdivision Size, Density, Lot Width

1. Minimum Site: Five (5) acres.

2. Maximum Density: Fourteen (14) mobile homes per acre, or one (1) per lot or space.
3. Minimum Site Width on Major Traffic Artery: One Hundred (100) feet.

12.172. Individual Lot and Structure Requirement

The following shall apply:

1. Each mobile home lot shall have a minimum area of four thousand (4,000) square feet, and have width of not less than fifty (50) feet.
2. Mobile homes shall be located on lots with a minimum setback from access street of twenty (20) feet and five (5) feet from any other lot line, provided that no mobile home shall be closer to any mobile home than fifteen (15) feet unless clustered in appropriate manner.
3. Each mobile home space shall be improved with one patio of concrete, or other suitable impervious material, having a minimum area of one hundred fifty (150) square feet, and one gravel or better home pad of size equal to or greater than the dimensions of the trailer located on the pad, but in no case less than ten (10) feet by forty (40) feet.
4. Permanent structures located within any mobile home lot shall be used for storage purposes only, and shall have a maximum area of eighty (80) square feet and shall be located not less than six (6) feet from any mobile home, nor closer to any lot lines than provided in the residential district in which located.
5. No permanent additions of any kind shall be built onto, or become a part of any mobile home; provided, however, that this provision shall not be construed to prohibit the addition to the mobile home of a patio cover or carport cover if same is not permanently attached to the ground. Such patio covers or carport covers shall be similar in appearance and design to the mobile home.
6. All mobile homes shall be secured by tie-downs for protection from wind damage to units and adjacent property, in accordance with state statute.
7. No later than thirty (30) days after placement of a mobile home dwelling on a site, the area between the bottom of the unit and the ground shall be enclosed by screening or skirting on all sides and ends.

12.173. Application for Zoning

Application to the Planning Secretary for the use of land as a mobile home subdivision under this Ordinance shall be accompanied by a development plan showing compliance with the requirement of this Ordinance.

12.18. Review Procedures for all Planned Developments

12.181. The developer should schedule an initial planning meeting with the Planning Commission Chairman and Planning Staff.

12.182. For the initial planning meeting a sketch plan of the proposed project should be furnished by the developer.

12.183. If during the initial meeting it is determined that the project is a subdivision as defined by Alabama law or an Ordinance of the City of Eufaula, the developer shall comply with all requirements of the Subdivision Regulations.

12.184. The following points should be discussed with the developer:

1. The present uses and character of the area.
2. The road and street system, especially peripheral streets and proposed internal circulation pattern as related to requirements for Planned Unit Developments.
3. Public and private open area and parks and trails.
4. Public utilities and services or their counterpart such as water, sewer, fire protection, surface drainage, school facilities, if any.
5. Type of structures to be built.
6. Proposed uses to be developed.

12.185. The Preliminary Plan

The developer, after receiving general approval of the sketch plan from the City staff, shall prepare and submit a Preliminary Plan for review, before submission of the Final Plan. The purpose of a Preliminary Plan is to provide an opportunity for somewhat detailed showing of the intent of the developer with regard to requirements spelled out in this Section, at as little expense as possible, using the following procedures:

1. After review of the preliminary plan by the administrative staff for conformance with requirements of this Section, the Plan will receive review by the Planning Commission and, if a rezoning of land will be necessary to accommodate the project, this Plan can be used for the public hearing, to be held in accordance with Alabama law.

2. Maps and Written Statement:

Maps and a written statement setting forth the details of the proposed development shall be included in the Preliminary Plan. The maps must show enough of the area surrounding the proposed development to demonstrate the relationship of the Planned Development to the adjoining uses, both existing and those proposed by the developer. The maps shall be in a general schematic form and contain the following information, and as appropriate, the facilities are to be identified as to whether they are to be public or private.

Maps to include the following information:

- a. The approximate topography;
- b. Proposed land uses and the approximate location of existing and proposed buildings and other structures and uses adjacent to the site;
- c. The character and approximate density of the dwellings;
- d. The approximate location of all streets and rights-of-way, and walkways, and parking facilities;
- e. Public uses including schools, parks, playgrounds, and other open spaces;
- f. Number of parking spaces;
- g. Amount of impervious surface;

- h. Generalized drainage plan;
- i. Development staging, if appropriate.

The written statement shall contain an explanation of:

- a. The character of the proposed development and the manner in which it has been designed to take advantage of the Planned Development Concept;
 - b. The proposed sewage disposal facilities;
 - c. Water supply and surface drainage provisions;
 - d. The manner of financing proposed;
 - e. The present ownership of all of the land included within the Planned Development Project;
 - f. The method proposed to maintain private common open area, building or other facilities;
 - g. The general indication of the expected schedule of development.
3. If, after a public hearing, the Planned Development Project is approved, any rezoning needed shall be instituted, subject to revocation and reversion to the original zoning of the land if the final plan is not approved.
4. In the event approval has been conditioned on modifications to the plan, then such Preliminary Plan approval shall not be effective until the developer has filed the modifications as required.
5. If the developer wishes to develop the Planned Development Project in stages, the Final Plan submitted for review and approval may cover only the first stage to be developed but succeeding stages of the Final Plan must be in substantial conformance to the approved Preliminary Plan.
6. If a Final Plan covering at least a portion of the area in the Preliminary Plan has not been filed within one (1) year, the approval shall expire. The approval may be extended for additional periods not to exceed six (6) months each when necessary.

12.186. The Final Plan

The Final Plan provides a specific and particular plan by which development and construction will take place.

- 1. In addition to those items specified for the Preliminary Plan, the Final Plan must include:
 - a. A map showing:
 - (1) Street location and nature of improvements;
 - (2) Lot lines and lot designs;
 - (3) The landscaping and tree planting plan;
 - (4) Surface drainage system;
 - (5) Peripheral setback (40 feet); and;

(6) All easements.

b. Areas proposed to be conveyed, dedicated or reserved for parks, parkways, playground, school sites, public buildings, and similar public and semi-public uses, if appropriate.

c. A plot plan for each building site, except single family lots and the common open area, showing the approximate location of all buildings, structures, and improvements and indicating the open spaces around buildings and structures.

d. Elevation and perspective drawings of all typical proposed structures and improvements except single family residences and their accessory buildings. The drawings need not be in construction detail.

e. A development schedule indicating:

(1) The approximate date when construction of the project can be expected to begin;

(2) The stages in which the project will be built and the approximate date when construction of each stage can be expected to begin;

(3) The approximate dates when the development of each of the stages in the development will be completed; and,

(4) The area and location of common open space that will be provided at each stage.

f. Agreements, provisions, declarations or covenants which govern the use, maintenance and continued protection of the Planned Development Project and any of its common open areas.

g. The following plans and diagrams will be provided when the local planning agency finds that the Planned Development creates special problems of traffic or parking:

(1) An off-street parking and loading area plan;

(2) A circulation diagram indicating the proposed movement of vehicles, goods and pedestrians within the Planned Development and to and from existing thoroughfares. Any special engineering features and traffic regulation devices needed to facilitate or insure the safety of this circulation pattern must be shown.

2. The Plan shall be accompanied by a written agreement, in a form acceptable to the City Attorney, on behalf of the owner, his successors and assigns as follows:

a. That the proposed development, as shown on the plans and as set forth in specifications, will be completed in every detail within such time period as may be agreed upon by the Planning Commission;

b. That all land improvements intended for the common use of all residents, including drives, walks, parking areas, recreation facilities and equipment and all landscaped or other common open space will be maintained in perpetuity, including such servicing as may be required for the use of such land improvements;

c. That no future changes in the development shall be made which would encroach upon the land used to comply with the requirements of this Chapter as to density, open space,

yards, courts, vehicular access, automobile parking, building coverage or other outdoor requirements; and,

d. That all easements for private drives or utility lines and similar purposes shall be open at all times for access by publicly employed personnel and equipment for police and fire protection, for inspection of utility systems and for any other public purpose.

12.187. Final Plan Approval

The following shall govern approval of a Final Plan.

1. The Planning Commission shall compare the Final Plan with the Preliminary Plan and with the standards set forth in this Section. If the Final Plan conforms to the standards set forth in this Section, the Planning Commission shall recommend and the City Council grant approval of the Plans. The City Council may place conditions upon the granting of approval, which in its judgment will insure conformance to the plan as approved.
2. The approval of the Final Plan shall be valid for a period of one (1) year following the date of such approval. At its discretion, the Council may extend Final Plan approval for an additional six-month period.
3. Factors to be considered by the city staff, the Planning Commission, and the City Council in reviewing any Planning Unit Development are that the development is in harmony with the Land Use Plan and with the character of the neighborhood and will provide an overall density and standard of open space as required by this ordinance.
4. The Final Development Plan or any stage of the Planned Development shall not be approved if the average of the allowable dwelling units per acre, up to and including the stage which is to be approved, exceeds by more than 10 percent the average number of dwelling units per acre which is allowable for the entire Planning Development.
5. Upon final approval and after all conditions have been met, the City Council shall approve the recording of the Final Development Plan in the deed records. When no parcels are to be sold, the developer will process and have recorded the subdivision plat in the manner designated for the City.
6. The determination of substantial conformance between the Preliminary Plan and the Final Plan shall be at the discretion of the City. Variation in conformance is intended solely to facilitate the minor adjustments which may be necessary as the plans approach a final construction stage. The City Council may refuse to grant approval of substantial conformance if, in their opinion, the adjustments are being used to significantly modify the approved plan.

12.188. Site Improvements

The developer, at his option, may place street improvements, sidewalks, utilities and other permanent site improvements after Preliminary Plan approval or stake the location of the buildings and make application for building permits, Under no circumstances, however, will any building permit be issued until final approval has been granted and the necessary portions of the Final Plan recorded. The placing of improvements will not obligate the local government to approve such improvements on the Final Plan if not in conformance with the terms of this section.

12.189. Public Record

The Final Plan is the permanent public record of the Planned Development and will be the manner in which the development is constructed as provided herein.

12.1810. Contents

The final plan shall contain, in final form, the information required above. In addition, the following will apply:

1. If parcels of land are to be sold, then a subdivision plat in the form prescribed by the law shall be filed for approval in the appropriate manner.
2. If land within the Planned Development Project is not to be sold in individual parcels, then a site plan shall be prepared and filed with the City which is suitable for inclusion in the deed records of the County, and a permanent reproducible transparency of the Final Plan will be filed with the City, which transparency will be placed on file with the City Clerk.

Section 12.2. Wellhead Protection Overlay Zone

The City of Eufaula and the Water Works and Sewer Board recognize that its residents rely on groundwater for a safe drinking water supply and that certain land uses contaminate groundwater, thus jeopardizing its integrity. Pursuant to the Safe Water Drinking Act, 1974, as amended, the U.S. Environmental Protection Agency required states to enact measures to protect the communities' groundwater supply. The Wellhead Protection Program established by the Alabama Department of Environmental Management sets up such a procedure.

To prevent the possible contamination of existing and future potable water wells by future development, the Eufaula Zoning Ordinance and Map will include an overlay zone depicting a 400' radius around each well. This overlay zone shall be known and described as the Wellhead Protection Overlay Zone. This section shall specify activities, uses and regulation within the Wellhead Protection Overlay Zone to insure the adequate protection of the Eufaula potable water wells.

12.21. Intent

To protect existing and future public wellfields from the possibility of contamination by controlling the types of uses within the vicinity of such wellfield.

12.21. Regulated Uses

- 1) The following uses will not be permitted within 400' of any public well, unless adequate measures are implemented to ensure wellhead protection to the satisfaction of the Eufaula Water Board Engineer, ADEM, the Wellhead Protection Committee and other appropriate City and Water Board officials.
 - a) Sanitary or industrial landfills or other surface impoundment.
 - b) Wastewater Treatment Plants, percolation ponds or similar facilities except individual single family residential on-site wastewater disposal facilities (septic tank).
 - c) Facilities that produce, use or store hazardous materials at or above established threshold amount listed in Title III of the Superfund Amendments and Reauthorization Act of 1986, 42 U.S.C., a.11001, et. seq. (SARA) and other State and Local Codes that establish similar threshold requirements.

- d) Junkyards or salvage operations
 - e) Mines
 - f) Airport refueling facilities
 - g) Activities that require the storage, use or transportation of restricted substances, petroleum products, hazardous toxic waste, medical waste, etc.
 - h) Excavation of waterways or drainage facilities that intersect the water table.
 - i) Feedlots or other commercial animal facilities.
- 2) Within 100' of any public well the following criteria shall apply:
- a) Existing wells
 - i) No septic systems shall be installed and all proposed development shall connect to central water and sewer.
 - ii) All existing development not currently connected to central sewer and water shall be required to connect within 90 days of notification that such facilities are available.
 - b) Future Wells

There shall be no development within this radius.
- 3) Sewer mains and surface water treatment systems shall not be located within 100' of any public well.

Section 12.3. Flood Hazard Areas

12.31. Statement of Intent

It is the intent of the floodway and flood fringe portions of the flood hazard area to provide protection from the hazards and losses caused by flooding to residents, businesses, industries, and public uses of the community, and to protect sensitive natural environments that might be damaged by improper use of the floodway fringe. The boundaries of the flood hazard district shall include, as a minimum, the flood prone areas defined by the Federal Flood Insurance Administration and may include other flood prone areas as identified by the City of Eufaula.

12.32. Floodway Uses Permitted

The following uses are permitted which have low-flood damage potential and do not threaten other lands during times of flood and do not require storage of materials, structures, flood control works, or substantial filling or grading and do not include the use of channels or flood ways, streams, drainage ditches or any other drainage facility or system.

1. Agricultural uses such as general farming, pasture, grazing, outdoor plant nurseries, horticulture, viticulture, truck farming, forestry, sod farming, and wild crop harvesting.
2. Industrial-commercial related uses such as loading areas, parking areas, airport landing strips, circuses, carnivals, and similar transient amusement enterprises.
3. Private and public recreational uses such as marinas, golf courses, tennis courts, driving ranges, archery ranges, picnic areas, boat launching ramps, swimming areas, parking, wildlife and nature preserves, game farms, fish hatcheries, shooting ranges, target ranges, trap and skeet

ranges, hunting and fishing areas, hiking and horseback riding trails, temporary moveable structures for the sale of food and refreshment, arts and crafts.

4. Residential related uses such as lawns, gardens, parking areas, and play areas.

12.33. Floodway Uses Permitted on Appeal

1. Drive-in theaters, new and used car lots, roadside stands, signs and billboards, storage yards for equipment, machinery, or materials.

2. Railroad streets, bridges, utility transmission lines and pipelines.

3. Kennels and stables

4. Construction of sand, gravel and other materials, substantial grading filling, excavational alteration, and natural protective barriers only if extraction activities will not result in damage to the flood or drainage system itself or destroy natural protective barriers.

12.34. Standards for Floodway Uses Permitted on Appeal

No structure, storage of materials or equipment, or their use may be allowable as a use permitted on appeal which, acting alone or in combination with existing or future uses, will significantly cause flood damages to other lands or accelerate erosion. All buildings or structures, temporary or permanent, within the floodway prone area shall:

1. Be designed with a low flood potential.

2. If permitted, shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters.

3. Structures shall be firmly anchored to prevent flotation, which may result in damage to other structures.

4. Service facilities such as electrical and heating equipment shall be floodproofed or constructed at or above the regular flood protection elevation for the particular area.

5. Storage of materials and equipment within the flood prone area shall:

a. Not include the storage or processing of materials that are in the time of flooding buoyant, flammable, explosive, or injurious to human, animal, or plant life.

b. Be allowed if such materials or equipment are not subject to major damage by flood and are firmly anchored to prevent flotation or are readily removable from the area within the time available after a flood warning.

12.35. Flood Fringe Uses Permitted

Uses permitted shall be allowed in the immediately adjacent area as determined by moving perpendicularly away from the waterway. The flood fringe shall be interpreted as overlaying that zone and impose the following construction limitations.

No building or structure shall be erected and no existing building structure shall be extended or moved unless the main floor of said building or structure is placed one (1) foot above the elevation subject to flood as defined by the studies prepared by the Flood Insurance Administration or the Corps of Engineers. No basement floor or other floor shall be constructed

below or at a lower elevation than the main floor unless floodproofed. Foundations of all structures shall be designed to withstand flood conditions at the site. Land may be filled within the flood fringe areas provided such fill extends twenty-five (25) feet beyond the limits of the structure, but does not extend into the floodway.

12.36. Flood Fringe Uses Permitted on Appeal

Uses permitted on appeal in the overlaid zone are subject to the same regulations for flood elevations and floodproofing as specified in Section 13.34.

12.37. Uses Prohibited

1. Sanitary landfills.
2. Structures for human habitation.
3. On-site absorption system.
4. Uses which impede the flow of water or raise the upstream flood level.

12.38. Development Requirements

1. Development plans for all proposed uses must be submitted to the Planning Commission for review and approval.
2. All uses must be floodproofed.
3. Sewer and water systems must be located and constructed so as to avoid impairment or contamination during flood.
4. No uses shall adversely affect the efficiency or capacity of the floodway or increase flood heights.
5. There shall be no encroachments into the floodway.
6. Applicant must also obtain any necessary state and federal permits prior to beginning construction.

Section 12.4. Transitional Areas of Placement of Mobile Homes

12.41. Purpose of Review Process

To allow for the placement of mobile homes on single-family lots of substandard record as in-fill housing where existing homes are of substandard condition that replacement housing of conventional types would not be feasible; and to assure that the mobile home will meet certain specifications and will provide pleasant living conditions for residents while protecting adjacent property.

12.42. Location

Mobile homes as in-fill housing will be permitted on appeal in R-1, R-2, R-3, and R-4 Residential Districts, the M-1, Industrial Districts, and the C-4, Highway Commercial District. Such areas shall be shown on the Official City Zoning Map by means of an overlay symbol and the standard designation for the zone and shall be labeled with the name of the zone followed by the designation "TA" (for example R-2TA).

12.43. Placement of Mobile Home in the Transitional Area

No mobile home shall be occupied within the city limits unless said mobile home is constructed in accordance with the minimum standards set forth by either the Mobile Home Manufacturer's Association (MHMA), or the Travel Coach Association (TCA), and has displayed permanently on the outside the seal or medallion of either aforementioned organizations certifying that the mobile home was manufactured in accordance with those standards. All mobile homes shall have adequate tie-downs and be skirted with wood, brick, rock, metal, or other suitable material to enhance the appearance. All minimum yard size, minimum lot size, and maximum building area for the zone in which the mobile home is located shall apply. Where water and sanitary/sewer facilities are available within one hundred (100) feet of the lot line, the homeowner shall tie into the existing city utilities. If outside of utility limits then the standards set by the State Health Department shall apply where lot size requirements are in question. No later than thirty (30) days after placement of a mobile home on a site, the area between the bottom of the unit and the ground shall be enclosed by screening on all sides and ends.

Section 12.5. Airport Hazard Areas

12.51. Designation of Airport Hazard Areas

For the purpose of this ordinance, the following area(s) are designated as airport hazard areas. The area including and within one-eighth (1/8) mile of Weedon Field, a municipally owned airport of the City of Eufaula, and the area including and within one-eighth (1/8) mile of any helipad, public or private. The areas are more particularly shown or described in the "The Zoning Map of Eufaula". Said map and all explanatory matter thereon are hereby adopted and made part of this ordinance.

12.52. Number and Type of Districts and Boundaries

For the purpose of this ordinance, airport hazard areas are hereby divided into the same number and type of districts and with the same designation or names as listed in Article 5 of this Zoning Ordinance, except as specified below, and the boundaries of the said districts are hereby established as shown on the Eufaula Zoning Map.

12.53. Regulations

Within an airport hazard area the following regulations shall apply:

(a) For airports only:

- (1) No building shall exceed one story or twenty (20) feet in height except with the written approval of the Board of Adjustment.
- (2) Within the approach and departure path, no structure, tree or other obstacle shall exceed the height of a forth to one (40:1) slope.

(b) For helipads:

- (1) No structure, tree or other obstacle shall exceed the height of a two to one (2:1) slope from the helipad.
- (2) Within the approach and departure path, no structure, tree or other obstacle shall exceed an eight to one (8:1) slope.

12.54. Administration and Enforcement

Within an airport hazard area, the Board of Adjustment shall act as the “Administrative Agency” and review all requests for land development within Airport Hazard Areas.

The provisions of this ordinance within an Airport Hazard Area shall be administered and enforced by the Building Official.

This page is intentionally left blank

ARTICLE THIRTEEN
REPEAL OF CONFLICTING ORDINANCE AND EFFECTIVE DATE

Section 13.1. Repeal of Conflicting Ordinances

13.11. All ordinances or parts of ordinances in conflict with this Zoning ordinance, or inconsistent with provisions of this ordinance, are hereby repealed to the extent necessary to give this ordinance full force and effect.

Section 13.2 Effective Date

13.21. This ordinance shall take effect and be in force immediately after adoption and publication as required by law.

ADOPTED AND APPROVED by the City Council of the City of Eufaula this the 3rd day of November, 1986.

/s/ Mac W. Clark
Council President Pro Tempore

/s/ Linda M. Walden
City Clerk

This ordinance has been updated by including the following ordinances:

Ordinance 1987-24
Ordinance 1988-9
Ordinance 1988-10
Ordinance 1990-2
Ordinance 1994-2
Ordinance 1996-10
Ordinance 1996-17
Ordinance 1997-8
Ordinance 1998-1
Ordinance 1998-6
Ordinance 1999-11
Ordinance 2000-2
Ordinance 2002-8
Ordinance 2004-2
Ordinance 2005-5
Ordinance 2007-6
Ordinance 2007-8
Ordinance 2008-6
Ordinance 2012-7
Ordinance 2014-7
Ordinance 2014-10