

Introduced: 8-18-15

Adopted: 9-1-15

Ordinance No: 2015-2

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF EUHARLEE, GEORGIA FOR THE PURPOSE OF **AMENDING AND READOPTING THE ZONING CODE OF THE CITY OF EUHARLEE, GEORGIA;** AND FOR OTHER PURPOSES.

WHEREAS, the Georgia Constitution delegates authority to provide for land use planning and zoning directly to the municipalities of Georgia, including the City of Euharlee, at Georgia Const. Art. 9, § 2, ¶ 4; and

WHEREAS, the Mayor and City Council of the City of Euharlee, Georgia desires to regulate the use of property within the City such that growth, development and use of property accords with the police power and the best interests of the citizens, and to preserve the public health, safety and welfare; and

WHEREAS, the City's preexisting Zoning Ordinance needs changes and amendments to better serve the citizens of Euharlee, Georgia; and

WHEREAS, having conducted duly noticed and published public hearings on September 1, 2015 regarding the proposed zoning ordinance and zoning map, the standards for the exercise of the zoning power and the policies and procedures governing public hearings; and

WHEREAS, in adopting the sign regulations contained within the proposed Zoning Ordinance to be adopted, it is the intent and purpose of the Mayor and City Council to:

- a. balance the right of individuals to convey their messages through signs and the right of the public to be protected against the unrestricted proliferation of signs;
- b. reduce traffic and pedestrian hazards;
- c. maintain the historical and cultural heritage and image of the City;
- d. protect property values by minimizing the possible adverse effects and visual blight caused by signs;
- e. avoid the harmful aspects of the unrestricted proliferation of signs;
- f. promote economic development and tourism;
- g. protect private property values; and
- h. ensure the fair and consistent enforcement of sign regulations.

Having considered the following studies, which the Mayor and City Council find to be relevant, useful and applicable to Euharlee, Georgia, the Mayor and City Council find that the size, location and quantity of sign structures within the City must be regulated in order to achieve the above-stated intents and purposes: University of Georgia Land Use Clinic (2003, June 26). Sign Control on Rural Corridors: Model Provisions and Guidance; Wisconsin Department of Transportation (1994, December). Milwaukee County Stadium Variable Message Sign Study: Impacts of an Advertising Variable Message Sign on Freeway Traffic; Scenic America (2007). Billboards in the Digital Age: Unsafe (and Unsightly) at Any Speed. *Scenic America Issue Alert*; Nasar, Jack L. and Hong, Xiaodong (1999, September). Visual Preferences in Urban Signscapes. *Journal of Environment and Behavior*, 31(5), 671-691; Office of Safety Research and Development, Federal Highway Administration (2001, September 11). Research Review of Potential Safety Effects of Electronic Billboards on Driver Attention and Distraction. *U.S.*

Department of Transportation; New York State Department of State, Division of Local Government Services (2006, January). *Municipal Control of Signs*. *James A. Coon Local Government Technical Series*; Weinstein, Alan C. *A Study of Local Regulation of Outdoor Advertising in 268 U.S. Jurisdictions*. Outdoor Advertising Association of America, Inc.; City Club of Portland (1996, September 6). *Billboard Regulation in Portland*. *City Club of Portland Bulletin*, 78(13), 1-40; Smily, Alison and Persaud, Bhagwant, et al. (2005). *Traffic Safety Evaluations of Video Advertising Signs*. *Transportation Research Record: Journal of the Transportation Research Board*, No. 1937, 105-112.

In adopting these sign regulations, the Mayor and City Council especially recognize the vast number of court decisions, coming from Georgia courts, the federal courts, and courts throughout the United States, which recognize that the regulation of the size, location and quantity of sign structures is a valid and lawful means of achieving the above-stated intents and purposes, and that such intents and purposes are valid and lawful governmental interests, which include the following: Granite State Outdoor Advertising, Inc. v. Cobb County, Ga., 193 Fed.Appx. 900 (C.A.11th 2006)(finding that the stated goals within a sign ordinance of protecting against traffic hazards and the adverse impact on the county's aesthetic qualities are substantial government interests); Gregory v. Clive, 2007 WL 2914515 (Ga. S.Ct. 2007)(recognizing as within a local government's police power to enact legislation governing billboards and signs, as such legislation clearly addresses the public health, safety, or general welfare of the community); H & H Operations, Inc. v. City of Peachtree City, Ga., 248 Ga. 500 (1981)(holding that, under its police power, a municipality can enact and enforce reasonable regulations governing the erection and maintenance of signs within its jurisdiction); Harnish v. Manatee County, Florida, 783 F.2d 1535 (C.A. 11th 1986)(finding that aesthetics is a substantial governmental goal which is entitled to and should be accorded weighty respect, and that the governmental entity charged with the responsibility of protecting the environment must be given discretion in determining how much protection is necessary and the best method of achieving that protection); Lamar Advertising Company v. City of Douglasville, Ga., 254 F.Supp.2d 1321 (N.D.Ga. 2003)(finding that where a sign ordinance asserts the goals of public safety, traffic safety, health, welfare and aesthetics, a municipality has shown an important or substantial governmental interest unrelated to the suppression of free speech); Metromedia, Inc. v. City of San Diego, 453 U.S. 490 (1981)(holding that the goals of traffic safety and aesthetics advanced by a municipality as justification for regulating signs is a substantial governmental interest); St. Louis Poster Advertising Co. v. City of St. Louis, 249 U.S. 269 (1919)(finding that billboards may be prohibited in the residential districts of a city in the interest of the safety, morality, health and decency of the community); Members of the City Council of the City of Los Angeles v. Taxpayers for Vincent, 466 U.S. 789 (1984)(finding that a government entity can regulate signs and billboards when necessary to advance a significant and legitimate state interest, such as the protection of the aesthetics and quality of life within its jurisdiction); City of Doraville v. Turner Communications, Corp., 236 Ga. 385 (1976)(finding that under its police power authority, a municipality can regulate the location and maintenance of outdoor advertising signs within their territorial jurisdiction); Spratlin Outdoor Media, Inc. v. City of Douglasville, 2006 WL 826077 (N.D.Ga. 2006) (upholding sign ordinance where the ordinance's height and setback restrictions were rationally related to its stated goals of promoting the health, safety, morality and general welfare of the community, promoting the orderly and beneficial development of the city, promoting adequate access to natural light and air, improving the aesthetic appearance of the city, and encouraging the most appropriate use of land and buildings in accordance with the city's comprehensive plan); and Reed v Town of Gilbert, Ariz., 135 S.Ct. 2218 (2015).

NOW THEREFORE BE IT ORDAINED, AND IT HEREBY IS ORDAINED, by virtue of the authority vested in the Mayor and City Council of Euharlee, Georgia by law that the Zoning Ordinance of City of Euharlee, Georgia is readopted as follows:

SECTION ONE

The City of Euharlee Zoning Ordinance in effect immediately prior to the adoption of this ordinance is hereby repealed in its entirety and replaced with the revised Zoning Ordinance of the City of Euharlee, Georgia which is attached hereto as Exhibit A.

SECTION TWO

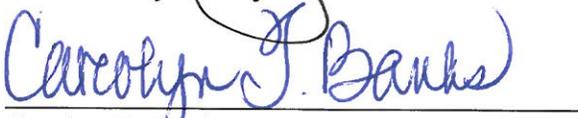
- A. The zoning ordinance adopted in Section One above and attached hereto as Exhibit A contains at Section 15.6 Standards for the Exercise of the Zoning Power which shall henceforth govern the exercise of the zoning power in Euharlee, Georgia.
- B. The zoning ordinance adopted in Section One above and attached hereto as Exhibit A contains in Article XIV Procedures for the call and conducting of public hearings for the purpose of considering zoning decisions which shall henceforth govern public hearings held to consider and render zoning decisions.
- C. As further provided at Section 4.2 of the zoning ordinance adopted by Section One above and attached hereto as Exhibit A, the official zoning map of Euharlee, Georgia, is hereby readopted. In such cases where properties have been rezoned subject to conditions, or which special exceptions or special use permits have been issued, such conditions to the rezoning or special exception or use shall remain in full force and effect as initially adopted and imposed and shall not be removed or repealed by this readoption of the official zoning map.

SECTION THREE

- A. Severability Clause. It is the express intention of the Mayor and City Council that each independent provision of this ordinance and the zoning ordinance attached hereto as Exhibit A should be adopted, and the Mayor and City Council would have adopted each such independent provision even if the others had not been adopted. Therefore, in the event that a court of competent jurisdiction finds any provision of this ordinance or the zoning ordinance attached hereto as Exhibit A to be unlawful, invalid or unenforceable, it is the intent of the Mayor and City Council that the offending provision be severed, and all lawful provisions remain in force.
- B. General Repealer. Any ordinance not expressly addressed by this ordinance that is inconsistent with the provisions of the zoning ordinance attached hereto as Exhibit A is expressly repealed to the extent that it conflicts with the zoning ordinance attached hereto as Exhibit A.
- C. Effective date. The public welfare demanding, this ordinance shall be effective immediately after its adoption.

SO ADOPTED BY THE MAYOR AND CITY COUNCIL OF EUHARLEE, GEORGIA,
THIS 1st DAY OF September, 2015.


Dennis Thayer, Mayor


Carolyn T. Banks, City Clerk