

**ZONING ORDINANCE
OF THE CITY OF EUHARLEE, GEORGIA**

ADOPTED SEPTEMBER 1, 2015

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ZONING ORDINANCE
OF THE CITY OF EUHARLEE, GEORGIA

An Ordinance regulating within the City of Euharlee the location, height, bulk, number of stories and size of buildings and other structures; the sizes of yards, courts, and other open spaces; the density and distribution of population; and the uses of buildings, structures, and land for trade, industry, residence, recreation, mining, agriculture, forestry, conservation, sanitation, protection against floods, public activities, and boundaries thereof; defining certain terms used herein; providing for the method of administration and amendment; establishing and defining the powers and duties of the Hearing Examiner; establishing and defining the powers and duties of the Planning and Zoning Commission; providing penalties for violations; repealing conflicting ordinances; and for other purposes.

ARTICLE I

PREAMBLE AND ENACTMENT CLAUSE

The City Council of Euharlee, pursuant to Article 9, Section 2, Paragraph IV of the 1983 Constitution of the State of Georgia, hereby ordains and enacts into law the following articles and sections:

ARTICLE II

SHORT TITLE

This Ordinance shall be known and may be cited as “The Zoning Ordinance of the City of Euharlee” or as the “Euharlee Zoning Ordinance.”

ARTICLE III

DEFINITIONS

Sec. 3.1 INTERPRETATION OF CERTAIN TERMS AND WORDS

For the purpose of interpreting this Ordinance, certain words or terms used herein shall be defined as follows: Words used in the present tense include the future tense. Words used in the singular number include the plural, and words used in the plural include the singular. The word “person” includes a firm, association, organization, partnership, corporation, trust, and company as well as an individual. The word “lot” includes the word “plot” or “parcel.” The word “shall” is always mandatory. The word “used” or “occupied” as applied to any land or building shall be construed to include the words “intended, arranged or designed to be used or occupied.” The word “map,” “zoning map,” or “Euharlee Zoning Map” means the “Official Zoning Map of the City of Euharlee, Georgia.”

Sec. 3.2 LIST OF DEFINITIONS

Except as specifically defined herein, all words used in this Ordinance shall carry their customary meaning as defined by a standard dictionary.

- 3.2.1 **ACCESSORY USE:** A use located on the same lot as the principal use, which is clearly incidental and secondary to the permitted use and which does not change the character of such use, including, but not limited to, private garages, bathhouses, greenhouses, tool sheds, storage buildings, or similar.
- 3.2.2 **AGRICULTURE:** Agriculture shall be considered to mean the raising of crops, fruit, produce and the like in a customary manner (including for example row crops, fruit orchards, tree farms, commercial greenhouses) or the raising of livestock in a customary manner (including for example chicken houses, swine enclosures, cattle barns, commercial stables, private stables, livestock enclosures, cattle or sheep grazing, and hydroponic farming), and shall include all associated activities.
- 3.2.3 **APARTMENTS:** A multi-family residential use of four (4) or more attached dwelling units for which rent is paid and no fee title is conveyed.
- 3.2.4 **ASSEMBLY PLANT:** A facility that performs the fitting together or assembling of pre-manufactured parts into a complete article, sub-assembly, or product. A “heavy assembly plant” assembles products that exceed 200 pounds per unit (e.g. cars, motorcycles, etc.) or does not have a completely enclosed production line. These definitions shall not apply if a more specific use, term or definition is contained in this Ordinance.
- 3.2.5 **ASSISTED-LIVING FACILITY:** A residential facility that provides an array of coordinated supportive personal and health care services, available 24 hours per day, to residents who need any of these services. Such facility does not include nursing homes, or group homes for persons with a disability.
- 3.2.6 **BLOCK:** A piece or parcel of land entirely surrounded by public highways or streets, other than alleys.
- 3.2.7 **BOARDING HOUSE:** See “Rooming House.”
- 3.2.8 **BUILDING:** Any structure intended for shelter, housing, or enclosure of persons, animals, chattels or property, and usually having a roof supported by columns or by walls.
- 3.2.9 **BUILDING, ACCESSORY:** A detached structure designed for the use of which is clearly incidental to and subordinate to the principal structure or use of the land, and which is located on the same lot as the principal structure or use.
- 3.2.10 **BUILDING, PRINCIPAL:** A building in which is conducted the main use of the lot on which said building is located.
- 3.2.11 **CATTLE BARN:** Any structure, building, shelter or other facility for raising, feeding, sheltering or maintaining cattle or similar animals, including, but not

limited to, dairy cattle, breeding cattle and beef cattle. Any cattle barn is a “major livestock enclosure,” no matter what size.

- 3.2.12 CHICKEN COOP: Any structure, building, shelter or other facility for raising, feeding, sheltering or maintaining chickens, containing 20 or less chickens.
- 3.2.13 CHICKEN HOUSE: Any structure, building, shelter or other facility for raising, feeding, sheltering or maintaining chickens, containing more than 20 chickens. Any chicken house is a “major livestock enclosure,” no matter what size.
- 3.2.14 CITY: The City of Euharlee.
- 3.2.15 COMMERCIAL VEHICLE: A duly licensed and registered vehicle used to transport passengers or property to further a commercial enterprise. A commercial vehicle must not be used as an office nor have customer entry for a retail transaction. For purposes of this Ordinance, the following are also commercial vehicles: vehicles of more than 10,000 pounds gross vehicle weight; vehicles with a manufacturer’s rated load capacity of more than $\frac{3}{4}$ ton; vehicles registered as commercial vehicles, common carriers, motor common carriers, or classified as “for hire” by the State of Georgia, other States, or the ICC; or a freight trailer, semi-trailer, flatbed, tanker trailer, log trailer or other commercial trailer exceeding 16 feet in length. A recreational vehicle or farm machine or farm vehicle for agricultural uses is not a commercial vehicle. See Sec. 6.17 for further regulations.
- 3.2.16 CONDITIONAL USES: A use not ordinarily permitted but which may be permitted upon the imposition of conditions related to the promotion of the public health, safety, morals or general welfare and designed to minimize the negative impact on surrounding lands. Such conditions may include, but are not limited to, restrictions on land use; height, setback and other non-use requirements; physical improvements to the property and infrastructure serving the property. A conditional use must be approved in the same manner as a rezoning request prior to the issuance of a permit. See Article XVI.
- 3.2.17 CONDITIONAL ZONING: The imposition of conditions in the grant of a rezoning application which are in addition to or different from the regulations set forth in this zoning ordinance and which are related to the promotion of the public health, safety, morals or general welfare and designed to minimize the negative impact on surrounding lands. Such conditions may include, but are not limited to, restrictions on land use, height, setbacks and other non-use requirements, physical improvements to the property and infrastructure serving the property.
- 3.2.18 CONDOMINIUM: Individual ownership units in a multi-family structure, combined with joint ownership of common areas of the building and grounds, or otherwise meeting the definition of Condominium in the Georgia Condominium Act, Title 44, Chapter 3, Article 3.
- 3.2.19 CONVENTIONAL SINGLE-FAMILY HOUSING (SITE-BUILT HOME): A dwelling unit constructed on the site from materials delivered to the site, constructed in accordance with the applicable Standard Building Codes.
- 3.2.20 COUNTY: Bartow County.

- 3.2.21 DAY CARE, ADULT: A use that provides care, assistance with personal services and/or supervision for at least three adults for more than four and less than 24 hours per day. Uses providing medical services or assistance with medical or rehabilitative treatment are not included.
- 3.2.22 DAY CARE, CHILD (NURSERY SCHOOL): A use that provides care, assistance with personal services and/or supervision for at least three children for more than four and less than 24 hours per day. Uses providing medical services or assistance with medical or rehabilitative treatment are not included.
- 3.2.23 DEVELOPER: The owner of, or person responsible for, a development.
- 3.2.24 DEVELOPMENT: Subdividing a tract of land into two or more lots whether for sale or rent, whether for commercial, industrial, office or residential purposes, or some combination thereof. "Development" shall include redevelopment of existing development. "Development" shall also include the construction of any commercial, industrial, multi-family or office building or structure, even if on a single lot, and shall include the construction of a manufactured house park.
- 3.2.25 DISABILITY: A physical or mental impairment that substantially limits one or more of a person's major life activities, including a person having a record of such an impairment or being regarded as having such an impairment. A "disability" does not include current illegal use of, or addiction to, any federally controlled substance, as defined in Section 102 of the Controlled Substances Act, 21 U.S.C. 802 or successor law. "Major life activities" means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working. "Has a record of such an impairment" means has a history of, or has been classified as having, a mental or physical impairment that substantially limits one or more major life activities.
- 3.2.26 DWELLING: A building or other structure designed, arranged, or used for temporary or permanent living quarters for one or more persons.
- 3.2.27 DWELLING UNIT: A building or portion thereof, providing complete living facilities for one family.
- 3.2.28 EASEMENT: A grant by a property owner of the use of land for a specific purpose or purposes by the general public, a corporation, or a certain person or persons.
- 3.2.29 EXTENDED STAY MOTEL / HOTEL: A hotel or motel that allows weekly or monthly rentals at a reduced rate from the daily rental rate. See Sec. 6.22 for further regulations.
- 3.2.30 FAMILY: An individual or two (2) or more persons related by blood, marriage, or adoption living together in a dwelling unit; or a group of not more than six (6) persons who need not be related by blood, marriage, or adoption, living together in a dwelling unit. For purposes of this Ordinance, "a family" may include five (5) or fewer foster children placed in a family foster home licensed by the State of Georgia, but shall not include fraternities, sororities, rooming houses or boardinghouses, nursing homes, or rest homes.

- 3.2.31 **GREENSPACE:** Property that has been conveyed to a land trust or the City of Euharlee for preservation as undeveloped land.
- 3.2.32 **GROUP HOME FOR PERSONS WITH A DISABILITY:** A residence in which three or more persons with disabilities reside and which is licensed by the State Department of Human Resources as a personal care home under Title 31. See Sec. 6.26 for further regulations.
- 3.2.33 **GROUND ANCHOR:** Any device at the manufactured house stand designed to secure a manufactured house to the ground.
- 3.2.34 **GUEST HOUSE:** A detached structure that is an accessory building to the principal residence on the same lot intended only for occupancy by relatives or periodic guests of the occupants of the principal residence and for which no remuneration is given or received. See Section 6.6 for further regulations.
- 3.2.35 **HOME OCCUPATION:** Any use customarily conducted within the principal dwelling and carried on solely by the occupant thereof. See Section 6.7 for further regulations.
- 3.2.36 **HOMELESS SHELTER:** See “Shelter Care Facility.”
- 3.2.37 **HOSPICE:** A use, other than uses fitting the description of Personal Care Homes, Nursing Homes, or Group Home for Persons with a Disability, in which domiciliary care is provided with support and supervisory personnel that provide room and board, personal care and rehabilitation services in a family environment for persons not meeting the definition of handicapped under the Fair Housing Act, 42 U.S.C. § 3601 et seq.
- 3.2.38 **HOTEL:** Building(s) or structure(s) typically multi-story, providing multiple residential dwelling units for typically short-term rental (two weeks or less), with interior access to the units. Distinct from “Extended Stay Hotel.”
- 3.2.39 **INDUSTRIALIZED HOUSING:** A factory fabricated dwelling or commercial unit built in one or more sections designed to fit together on a foundation but which usually does not originally have wheels for movement and which is constructed in accordance with the Georgia Industrialized Building Act (O.C.G.A. § 8-2-110) and which bears the seal of approval issued by the Commissioner of Community Affairs. (Includes the term “Modular House.”)
- 3.2.40 **INDUSTRY, GENERAL:** The manufacture, assembly, repair, processing, testing or packaging of finished products, predominantly from previously prepared materials or from raw materials; includes processing, fabrication, incidental storage, and distribution of such products. In general, such uses shall occur entirely or almost entirely within an enclosed structure. Without restricting the generality of the foregoing, this would include for example: assembly plants, feed processing plants, soft drink bottling and distribution plants, beer and liquor distribution plants, carpet manufacturing plants, and similar facilities. In cases of facilities not clearly falling into this definition, the Zoning Administrator shall determine whether a facility is general industry or heavy industry.

- 3.2.41 **INDUSTRY, HEAVY:** A large-scale industrial manufacturing or processing activity, including especially the manufacturing or processing of raw materials for other industries, businesses or uses. Without restricting the generality of the foregoing, this would include for example: plants for the manufacture of petroleum products, pulp and paper products, stone, clay, and glass products, cement and lime products, fertilizers, animal by-products; and plants which will be engaged in the primary metal industry, metal processing, or the processing of natural gas or its derivatives. This would also include plants and facilities involved in the production (or processing) of intrinsically dangerous materials or products such as explosives, acids, and the like. In cases of facilities not clearly falling into this definition, the Zoning Administrator shall determine whether a facility is general industry or heavy industry.
- 3.2.42 **JUNK YARD (SALVAGE YARD; SCRAP YARD):** Any use involving the storage or disassembly of wrecked automobiles, trucks, or other vehicles; storage, baling or otherwise dealing in bones, animal hides, scrap metal, commercial/residential appliances, used paper, used cloth, used plumbing fixtures and used brick, wood, or other building materials. Such uses shall be considered junk yards whether or not all or part of such operations are conducted inside a building or in conjunction with, addition to, or accessory to other uses of the premises. See Section 6.10 for additional regulations.
- 3.2.43 **KENNEL, COMMERCIAL:** Any facility or structure, other than an animal shelter, where dogs or cats are maintained for boarding, holding, training, or similar purposes for fee or compensation.
- 3.2.44 **KENNEL, PRIVATE:** Any facility or structure, other than an animal shelter, where more than 10 dogs or 10 cats are maintained for any purpose, without fee or compensation being charged.
- 3.2.45 **LAND-DISTURBING ACTIVITY:** Any activity which may result in soil erosion from water or wind and the movement of sediments into state waters or onto lands within the state, including, but not limited to, clearing, dredging, grading, excavating, transporting, and filling of land, but not including agricultural operations and forestry.
- 3.2.46 **LAND DISTURBANCE PERMIT:** A permit granted under the Euharlee Soil Erosion and Sedimentation Control Ordinance that provides the authorization necessary to conduct a land-disturbing activity under the provisions of that Ordinance and this Ordinance.
- 3.2.47 **LANDFILL:** An area of land on which or an excavation in which solid waste is placed for permanent disposal. See Sec. 6.29 for further regulations.
- 3.2.48 **LIVESTOCK:** All animals of the equine (Family: Equidae), bovine (Family: Bovidae), or swine (Family: Suidae) type (or similar animals), including, but not limited to, goats, sheep, mules, horses, hogs, and cattle; all chickens, roosters, hens and similar birds; other grazing animals; all ratites, including, but not limited to, ostriches, emus, and rheas; non-traditional livestock including, but not limited to, bison, deer, buffalo, and llamas; and other animals raised for profit or use, but not including domestic dogs or cats.

- 3.2.49 **LIVESTOCK ENCLOSURE:** Any structure, building, shelter, or other facility used for raising, feeding, sheltering or otherwise maintaining livestock. Fenced grazing land and fenced pasture for horses, cattle and other grazing animals shall not be included in this definition. A “*major livestock enclosure*” is a livestock enclosure containing more than 200 square feet; or any collection of between two and six individual smaller livestock enclosures on one tract that add up to more than 200 square feet in total area; or any collection of more than six livestock enclosures, no matter the total area (even if less than 200 square feet). A “*minor livestock enclosure*” is a livestock enclosure containing less than 200 square feet, or a collection of between two and six livestock enclosures that add up to less than 200 square feet in total area.
- 3.2.50 **LOT:** A developed or undeveloped tract of land in one ownership and legally transferable as a single unit of land.
- 3.2.51 **LOT, DEPTH OF:** The mean horizontal distance between the front and rear lot lines, measured in the general direction of the side lot lines.
- 3.2.52 **LOT, WIDTH OF:** The distance between side lot lines.
- 3.2.53 **MANUFACTURED HOUSE STANDS:** That area of a manufactured house lot which has been reserved for the placement of a manufactured house.
- 3.2.54 **MANUFACTURED HOUSE (MOBILE HOME):** A detached, single-family dwelling unit designed for long-term occupancy and constructed in one or more units with wheels for movement (whether or not such wheels are later removed) and which has plumbing and electrical connections provided for attachment to outside systems, whether or not such unit is subsequently installed on a foundation or other internal or external changes are made. See Sec. 6.3 for further regulations.
- 3.2.55 **MANUFACTURED HOUSE, MULTI-UNIT:** A detached, single-family dwelling unit constructed in two or more units with similar marriage walls with wheels for movement (whether or not such wheels are later removed) and which has plumbing and electrical connections provided for attachment to outside systems, whether or not such unit is subsequently installed on a foundation or other internal or external changes are made.
- 3.2.56 **MANUFACTURED HOUSE PARK:** A parcel of land which has been planned and improved for the placement of at least two manufactured houses for non-transient use. See Sec. 6.27 and Sec. 7.8 for further regulations.
- 3.2.57 **MEAT PROCESSING FACILITY:** A facility to process chicken, cattle, swine or other livestock into meat products or carcasses for sale as food or feed; e.g., a slaughterhouse, chicken processing plant, rendering plant, or similar facility.
- 3.2.58 **MOTEL:** Building(s) or structure(s) of typically one or two stories in height providing multiple residential dwelling units typically for short-term rental (two weeks or less), with adjacent parking and external access to each unit. Distinct from “Extended Stay Motel.”

- 3.2.59 **NON-CONFORMING USE:** A lawful use of or vested right to use any building, structure or land existing at the time of the adoption of this Ordinance or the adoption of any amendment thereto. See Section 6.1 for further regulations.
- 3.2.60 **NURSING HOME:** A long-term residential facility for elderly, or otherwise ill persons, which may include some or all of the following: individual dwelling units, living and sleeping rooms, a common dining room, skilled nursing care, recreational facilities, and transportation for social and medical purposes. Such facility does not include an Assisted Living Facility, a Personal Care Home, a Hospice, or a Group Home for Persons with a Disability.
- 3.2.61 **ORDINANCE:** This Ordinance and all amendments thereto including the Official Zoning Map of the City of Euharlee.
- 3.2.62 **OPEN SPACE:** An area that is not used for or occupied by a driveway, an off-street parking area, a loading space, a yard, a refuse storage space, or a building.
- 3.2.63 **PERSONAL CARE HOME:** Any dwelling, whether operated for profit or not, which undertakes through its ownership or management to provide or arrange for the provision of housing, food service and one or more personal services for two or more adults who are not related to the owner by blood or marriage and falls under the jurisdiction of the State of Georgia, Department of Human Resources.
- 3.2.64 **PLACE OF WORSHIP:** A structure which is intended for conducting organized religious services for organizations with tax-exempt status, with no overnight facilities. Secondary uses such as child care, senior services, professional counseling, hospices, schools, rehabilitation services, or similar uses are not included in the definition. A place of worship does not include organizations that violate federal, state, or city laws or codes.
- 3.2.65 **PLANNED CENTER:** A single office, commercial, or industrial property that is designed or intended for occupancy by two or more principal businesses that are separately owned and have no corporate relationship (e.g., strip shopping mall, office complex, industrial park, etc.).
- 3.2.66 **PLANNED UNIT DEVELOPMENT (PUD):** A planned development on a minimum of 20 acres with a minimum lot size of 10,000 square feet and without regard to the segregation of housing types or uses and which may include multiple uses within the same tract. See Sec. 7.15 for further regulations.
- 3.2.67 **PLAT:** A map, plan or layout of a county, city, town, lot, section, subdivision or development indicating the location and boundaries of properties.
- 3.2.68 **PRINCIPAL USE:** The primary purpose for which land or a building is used.
- 3.2.69 **RECREATIONAL VEHICLE:** A camper, camp trailer, travel trailer, house car, motor home, trailer bus, trailer coach or similar vehicle, with or without motive power, designed for human habitation for recreational or emergency occupancy. Where a recreational vehicle is on or attached to a trailer used to carry or tow said vehicle, they shall together be considered one recreational vehicle. A recreational

vehicle shall not include a pickup truck used for transportation to which a camper shell has been attached. See Secs. 6.11 and 6.16 for further regulations.

- 3.2.70 REDEVELOPMENT: The process of developing property that has previously been developed. See “Development.”
- 3.2.71 REHABILITATION/TREATMENT FACILITY: A facility owned and operated by a government entity to provide temporary occupancy and supervision of individuals (adults/juveniles) in order to provide rehabilitation, treatment, or counseling services. Without limitation, such services may include rehabilitation, treatment, counseling, or assessment and evaluation services related to delinquent behavior, alcohol and drug abuse, sex offenders, sexual abuse, or mental health. Associated education services may also be provided to juvenile occupants. See Sec. 6.25 for further regulations.
- 3.2.72 RESIDENTIAL TREATMENT CENTER: A use providing a 24-hour group living environment for four or more individuals unrelated to the owner or provider that offers room or board and specialized treatment, rehabilitation, or habilitation services for persons with emotional, psychological, developmental, or behavioral dysfunctions, impairments, or chemical dependencies. In residential treatment, individuals are assisted in acquiring the social and behavioral skills necessary for living independently in the community. This does not include individuals who have been charged with the commission of any felony or who are sex offenders. See Sec. 6.25 for further regulations.
- 3.2.73 RETAIL BUSINESS: A business consisting primarily of buying merchandise or articles in gross and selling to general consumers in small quantities or broken lots or parcels and not in bulk and not for resale.
- 3.2.74 RETIREMENT HOME / REST HOME / HOME FOR THE AGED: A use comprising a building or buildings providing dwelling units for persons over a certain minimum age, where no domiciliary care, nursing care, or other assistance is provided.
- 3.2.75 RIGHT-OF-WAY LINE: The dividing line between a lot, tract or parcel of land and a contiguous right-of-way.
- 3.2.76 ROOMING OR BOARDING HOUSE: A dwelling, other than a hotel or motel, where meals and/or housing accommodations, for three (3) or more persons, are provided for hire, for short or long-term occupation.
- 3.2.77 SHELTER CARE FACILITY (PROTECTIVE HOUSING FACILITY): A facility either (1) operated, licensed or contracted by a governmental entity, or (2) operated by a charitable, non-profit organization, which, for no compensation provides temporary lodging, meals, and counseling to individuals and groups such as the homeless, pregnant teenagers, victims of domestic violence, neglected children, and runaways. Temporary lodging is typically less than thirty (30) days. See Sec. 6.25 for further regulations.
- 3.2.78 SIGN: Any display of words, shapes or images designed to convey a message to the viewer, located on the exterior of any dwelling, building or structure, or located

anywhere on a lot upon a dedicated supporting structure or device, including poles, banners, windows and similar devices. See Article XI for further sign regulations.

- 3.2.79 **SIGN FACE:** The actual message-carrying portion of the sign that can be used to display content, including any area that can display or does display words, pictures or other communicative elements of the sign, including the background color.
- 3.2.80 **SIGN, GROUND:** A sign that is anchored to the ground and is wholly independent of a building for support. Freestanding signs are included in this definition, as are signs on poles, frames, or other mounting structures other than buildings. See Article XI.
- 3.2.81 **SIGN, PORTABLE:** Signs which are attached to vehicles, trailers, movable structures, or attached to sign structures which are not permanently anchored into the ground, or any sign which may be transported or is designed to be transported. Such signs include, but are not limited to, “A” and “T” type, sidewalk, sandwich, trailer signs, curb-type signs, printed banners or other commercial advertisements attached to vehicles and trailers. Inflatable figures and objects (e.g., creatures, beer cans) fall into this category. See Article XI.
- 3.2.82 **SIGN STRUCTURE:** This includes all the elements of the sign, including its supporting structure, sign face, base, lights and every portion of the sign.
- 3.2.83 **SIGN, WALL:** A sign that is fastened directly to or is placed or painted directly upon the exterior wall of a building, with the sign face parallel to the wall, and extending from the surface of the wall no more than 24 inches. A sign that is attached at an angle to the wall may extend outward no more than five feet, and requires an administrative variance from the Zoning Administrator. See Article XI.
- 3.2.84 **SKIRTING/UNDERPINNING:** Installation of acceptable material from the exterior base of the manufactured house to the ground which may or may not provide support to the house.
- 3.2.85 **STANDARD BUILDING CODES:** The state minimum standard codes as defined by O.C.G.A. § 8-2-20(9)(B)(i)(I) through (XI), as amended from time to time by the Department of Community Affairs. Appendixes are incorporated as stated in O.C.G.A. § 8-2-21. Codes included are as follows:
- (I) International Building Code (ICC);
 - (II) National Electrical Code (NFPA);
 - (III) International Fuel Gas Code (ICC);
 - (IV) International Mechanical Code (ICC);
 - (V) International Plumbing Code (ICC);
 - (VI) International Residential Code for One- and Two-Family Dwellings (ICC);
 - (VII) International Energy Conservation Code (ICC);
 - (VIII) International Fire Code (ICC);
 - (IX) International Existing Building Code (ICC);
 - (X) International Property Maintenance Code (ICC); and
 - (XI) Any other codes adopted by the Department of Community Affairs as a state minimum standard code.

- 3.2.86 **STABLE, COMMERCIAL:** Any building, structure, or other facility where equines are raised, fed, sheltered or otherwise maintained for any commercial or business purpose. For purposes of this definition, commercial or business purpose shall mean a facility where five or more adult horses are kept for purposes of training, boarding, sale or breeding or where equestrian instructions is offered for a fee.
- 3.2.87 **STABLE, PRIVATE:** Any building, structure, or other facility where equines are raised, fed, sheltered or otherwise maintained which is not a commercial stable.
- 3.2.88 **STATE WATERS:** The definition of “state waters” contained in OCGA Sec. 12-7-3, as amended from time to time, is incorporated herein by reference.
- 3.2.89 **STREET:** A way for vehicular traffic, whether designated as an avenue, road, boulevard, highway, expressway, lane, alley or other way.
- “Alley”: A minor way, public or private, used for service access to the back or side of properties otherwise abutting on a street.
- “Cul-de-sac”: The end of a minor or secondary street which is terminated with a paved turn-around.
- “Dead end”: A stub street in a subdivision which will at a later time be continued into another portion of the subdivision.
- “Major or arterial streets”: Those streets designed to serve moderately fast and voluminous traffic through and within the city with a minimum of traffic control devices.
- “Minor or local streets”: A street used primarily for access to adjacent and abutting properties.
- “Secondary or collector streets”: Those streets designed to collect traffic from minor or local streets and distribute it to major or arterial streets.
- 3.2.90 **STRUCTURE:** Anything constructed or erected, the use of which requires location on the ground, or attachment to something having location on the ground.
- 3.2.91 **SUBDIVISION:** A tract of land divided into two or more lots.
- 3.2.92 **SWIMMING POOL:** Any structure intended for swimming or recreational bathing that contains water over 24 inches deep. This includes in ground, aboveground, and on ground swimming pools. See Sec. 6.21 for additional regulations.
- 3.2.93 **SWINE ENCLOSURE:** Any structure, building, shelter, facility or fenced area used for raising swine or similar animals, including a breeding house, farrow house, hog pen, and so forth. Any swine enclosure is a “major livestock enclosure,” no matter what the size.

- 3.2.94 TOWNHOUSE: A multi-family residential use consisting of three (3) or more attached dwelling units for which fee simple title is conveyed and for which an incorporated mandatory homeowners' association is provided.
- 3.2.95 TRAVEL TRAILER / CAMPER: See "Recreational Vehicle."
- 3.2.96 Reserved
- 3.2.97 WHOLESale BUSINESS: A business primarily engaged in the selling of goods or articles in gross to retailers or jobbers for resale and not to the ultimate consumer.
- 3.2.98 YARD: An open space on the same lot with a principal building open, unoccupied, and unobstructed by buildings or structures from ground to sky except where encroachments and accessory buildings are expressly permitted.
- 3.2.99 YARD, FRONT: An open, unoccupied space on the same lot with a principal building, extending the full width of the lot and situated between the street and the front line of the building projected to the side lines of the lot.
- 3.2.100 YARD, REAR: An open, unoccupied space on the same lot with a principal building, extending the full width of the lot and situated between the rear line of the lot and the rear line of the building projected to the side lines of the lot.
- 3.2.101 YARD, SIDE: An open, unoccupied space on the same lot with a principal building, situated between the building and the side lot line of the lot and extending from the front yard to the rear yard. Any lot line not a rear line or a front line shall be deemed a side line.
- 3.2.102 ZONING ADMINISTRATOR: The Zoning Administrator of the City of Euharlee, or a duly authorized representative.
- 3.2.103 ZONING MAP: The Official Zoning Map of the City of Euharlee, also known as the Euharlee Zoning Map or the Official Zoning Map. See Section 4.2.

ARTICLE IV

ESTABLISHMENT OF ZONING DISTRICTS

Sec. 4.1 DIVISION INTO DISTRICTS

For the purpose of this Ordinance, Euharlee is divided into fourteen (14) zoning districts designated as follows:

- . A-1 Agricultural District
- . RE-1 Rural Estate (conventional or industrialized single-family) District
- . RE-2 Manufactured Houses (single family – minimum three acres)
- . R-1 Residential District (conventional or industrialized single-family)
- . R-2 Residential District (conventional, manufactured or industrialized duplexes, triplexes, or quadraplexes)
- . R-3 Residential District (multi-family conventional, manufactured, or industrialized housing)
- . R-6 Manufactured Housing Parks District
- . O/I Office and Institutional District
- . C-N Neighborhood Business District
- . C-1 General Business District
- . I-1 General Industrial District
- . I-2 Heavy Industrial District
- . M-1 Mining District
- . PUD Planned Unit Development District

Complete district regulations can be found in Article VII, and further applicable regulations can be found in Article VIII and throughout this Ordinance.

Sec. 4.2 DISTRICT BOUNDARIES; OFFICIAL ZONING MAP

The boundaries of each district are as shown on a map entitled the “Official Zoning Map of the City of Euharlee,” duly adopted by the City, signed by the Mayor, and kept in the office of the Zoning Administrator. Said map and all explanatory matter thereon are hereby made a part of and incorporated into this Ordinance. Said map shall be available for public inspection during the business hours of the Zoning Administrator’s office.

Sec. 4.3 RULES FOR DETERMINING BOUNDARIES

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

- 4.3.1 Where district boundaries are indicated as approximately following the center lines of streets or highways, street lines, or highway rights-of-way lines, such center lines, street lines, or highway rights-of-way lines shall be construed to be such boundaries.
- 4.3.2 Where district boundaries are so indicated that they approximately follow lot lines, such lot lines shall be construed to be said boundaries.

- 4.3.3 Where district boundaries are so indicated that they are approximately parallel to the center lines of streets, highways, or railroads, or rights-of-way of same, such district boundaries shall be construed as being parallel thereto and at such distance therefrom as indicated on the Zoning Map. If no distance is given, such dimension shall be determined by the use of the scale shown on said Zoning Map.
- 4.3.4 Where a district boundary line, as appearing on the Zoning Map, divides a lot in single ownership at the time of this enactment, the district requirements for the least restricted portion of such lot shall be deemed to apply to the whole thereof, provided that such extensions shall not include any part of such a lot more than thirty-five (35) feet beyond the district boundary line.

Sec. 4.4 FUTURE LAND USE MAP

The City of Euharlee Future Land Use Map is the official policy of the City concerning proposed land uses. The land use categories in the Future Land Use Map are guidelines to future development of the City.

Sec. 4.5 FUTURE LAND USE MAP DISTINGUISHED FROM ZONING

The future land use map does not alter or affect the existing zoning districts in the City, does not effectuate an amendment to the official zoning map, and does not itself permit or prohibit any existing land uses. However, it is the policy of the City to make every effort to keep zoning districts consistent with the future land use map classifications.

Sec. 4.6 LAND USE DISTRICTS

The boundaries of the various land use districts are shown upon the future land use map and shall be used as a guide for decision-making by the City Council.

Sec. 4.7 INTERPRETATION OF LAND USE DISTRICT BOUNDARIES

Where uncertainty exists as to the boundaries of any land use districts shown on the future land use map, the rules set forth in Section 4.3 shall apply.

Sec. 4.8 RELATIONSHIP BETWEEN LAND USE CATEGORIES AND ZONING DISTRICTS

It is the goal of the City that the land use categories established by the future land use map are to be implemented with appropriate zoning classifications, and that rezonings should be kept consistent with the future land use map wherever possible. If a zoning district is not listed as permitted in a land use district, application should first be made to change the land use district prior to amending the zoning district. Such applications can proceed simultaneously, but it is the goal of the City that no property should be zoned to a classification inconsistent with its land use district. However, the City Council has the power to grant rezonings inconsistent with the future land use map, which is only a policy guideline.

ARTICLE V

GENERAL PROVISIONS

Except as hereinafter provided,

Sec. 5.1 USE

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 unless at least in conformity with the codes and ordinances in effect in Euharlee at the time a permit is issued and all of the regulations herein specified for the district in which it is located.

5.1.1 All land development or construction shall comply with the codes and ordinances in effect in Euharlee at the time the building permit is issued.

Sec. 5.2 HEIGHT AND DENSITY

No building or other structure shall hereafter be erected or altered except as herein required or specified:

5.2.1 to exceed the height limits;

5.2.2 to accommodate or house a greater number of families or occupy a smaller lot area per family; or

5.2.3 to have narrower or smaller rear yards, front yards, side yards, or other open spaces.

Sec. 5.3 YARD SERVICE TO ONE BUILDING

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 any other building. Yards must remain open space, unobstructed by buildings or structures, except as otherwise permitted, such as accessory buildings in the rear yard.

Sec. 5.4 ONLY ONE PRINCIPAL BUILDING

Every building or structure hereinafter erected shall be located on a lot or tract as defined herein, and there shall not be more than one principal building on one lot, plus its accessory buildings. See also Sec. 5.8.

Sec. 5.5 LOTS; CREATION OF ILLEGAL LOTS

5.5.1 Lot Reduction. No lot, even though it may consist of one or more adjacent lots of record, shall be reduced in size so that the lot frontage or depth; front, side or rear yard; lot area; or other requirements of this Ordinance are not maintained. This section shall not apply when a portion of a lot is acquired for public purposes.

- 5.5.2 Illegal Lots. It is not permitted to split or subdivide any lot if any of the resultant lots are under the minimum size lot allowed in the zoning district. Creation of a new lot under the minimum size requirement of the relevant zoning district is not permitted, nor is leaving a remnant under the minimum size requirement. It is not permitted to reduce an existing lot's size under the minimum size requirement. Any subdivision or creation of a substandard lot is illegal and shall not create any vested right nor permit any non-conforming use.
- 5.5.3 Substandard Single Lots. Where the owner of a lot of record as of August 31, 1986, or his successor in title thereto, does not own sufficient land to enable him to conform to the dimensional requirements of this Ordinance, such lot may be used as a building site for a single-family residence in a district where residences are permitted.
- 5.5.4 **The City reserves the right to take legal action to reverse illegal lot creations, illegal lot splits, or other actions in violation of this section, including creation of substandard-sized lots or remnants.**

Sec. 5.6 STREET FRONTAGE

No principal building shall be erected on any lot which does not have immediate frontage on at least one public street (other than in subdivisions approved as private subdivisions). The minimum width of public road frontage for each lot shall be fifty (50) feet; except said road frontage may be reduced to twenty-five (25) feet for lots located in a cul-de-sac; provided, however, each lot must have a minimum width of 100 feet at a point no more than 100 feet from the public road right-of-way, unless said lot was a lot of record as shown by a recorded plat in the office of the Bartow County Clerk of Superior Court prior to August 31, 1986.

Sec. 5.7 CORNER LOTS

On lots having frontage on more than one street in any district, the minimum setbacks shall be as provided for each street in accordance with this Ordinance.

Sec. 5.8 PRINCIPAL BUILDING; ACCESSORY BUILDINGS

- 5.8.1 Every building or structure hereafter erected shall be located on a lot or tract as defined herein, and there shall not be more than one principal building on one lot, plus its accessory buildings.
- 5.8.2 Accessory buildings and structures in residential zoning districts or ancillary to residential use are permitted only in the rear yard and shall not be less than ten (10) feet from the side and rear property lines, and shall also meet all buffer requirements, if applicable; they shall also be no larger than three-fourths the size in square footage of the principal building. The size limitation shall not apply to accessory buildings in the A-1, RE-1 or RE-2 zoning districts on lots equal to or greater than two acres in size. All such structures must comply with applicable Standard Building Codes.
- 5.8.3 Temporary accessory structures (for example, mobile storage containers), may be located in any yard (including front yards) for no longer than fourteen (14) days. After that time period, any such structure must be removed.

Sec. 5.9 SETBACKS FOR BUILDINGS

The setback requirements of this Ordinance (see Article VIII) for buildings shall not apply to any lot where the average existing building setback line on lots located wholly or in part within 100 feet on each side of such lot, within the same block and zoning district, and fronting on the same side of the street as such lot, is less than the minimum setback required. In such cases, the setback on such lots may be less than the required setback, but not less than the average of the existing setbacks on the aforementioned lots, and in no case less than ten (10) feet from the street right-of-way.

Sec. 5.10 CONSTRUCTION IN RIGHT-OF-WAY

No building, structure or enclosure may be erected in any public right-of-way or any street right-of-way.

Sec. 5.11 HEIGHT OF BUILDINGS

No building shall exceed a height of fifty (50) feet, except in an areas zoned M-1, I-1 or I-2, in which case the maximum height shall be seventy-five (75) feet.

Sec. 5.12 HEIGHT LIMITS

The height limitations of this Ordinance shall not apply to church spires, belfries, cupolas and domes not intended for human occupancy; monuments, water towers, silos, observation towers, chimneys, smokestacks, conveyors, flag poles, masts, aerials, antennas, and similar structures.

Sec. 5.13 MINIMUM LOT WIDTH

Each lot shall have a minimum width of 100 feet at the location of the structure.

Sec. 5.14 LOTS OF RECORD

5.14.1 Single lots: Where the owner of a lot as of August 31, 1986, or his or her successor in title thereto, does not own sufficient land to enable him to conform to the dimensional requirements of this Ordinance, such lot may be used as a building site for a single-family residence in a district where residences are permitted.

5.14.2 Adjoining lots: If two or more adjoining lots with continuous frontage are in a single ownership at any time after August 31, 1986, and such lots individually are too small to meet the yard, width, and area requirements of the district in which they are located, such groups of lots shall be considered as a single lot or several lots of minimum permitted size, and the lot or lots in one ownership shall be subject to the requirements of this Ordinance.

Sec. 5.15 INSPECTION OF REQUIRED BUFFERS AND OTHER BARRIERS

In the event a screen, wall, fence, planted dividing strip, or any other type of buffer is required by this Ordinance for any use, such screen, wall, etc., will be subjected to periodic inspections by the Zoning Administrator to determine that such required walls, fences, etc.,

are being properly maintained. Failure to maintain such required walls, fences, etc., to an acceptable standard may be deemed a violation of this Ordinance.

Sec. 5.16 STREAM BUFFERS / STATE WATERS BUFFER

An undisturbed vegetative buffer is required for any state waters, as such term is defined in O.C.G.A. § 12-7-3. Such buffer is to be a minimum of fifty (50) feet on each side of the state waters, as measured horizontally either from the top of the stream bank, or from the point where vegetation has been wrested by normal stream flow or wave action, whichever provides a larger buffer. For state waters that are not streams, the buffer is measured from the top of the bank or edge of the high-water mark, whichever is higher. Access points to the stream for livestock watering shall be allowed, but must be constructed following Best Management Practices (BMPs) to minimize pollution and sedimentation to the stream or river. A further twenty-five (25) foot setback buffer is imposed outside the 50-foot buffer; in the setback buffer, no impervious surfaces (including driveways, walkways, patios, other paving, etc.), nor septic tanks, septic drain fields or similar disposal systems, may be placed. Grading, filling, and earthmoving shall be minimized within the setback buffer. Any unauthorized disturbance of the buffer during construction must be restored to a vegetative density similar to the adjacent buffer areas, and also constitutes a violation of this Ordinance. Variances shall be granted under Article XIV.

Any permit applications for property requiring buffers and setback buffers under this section must include all information requested by the Zoning Administrator to insure compliance with this section, with the following as a minimum: a site plan showing: the location of all streams on the property, the limits of required stream buffers and setbacks on the property, buffer zone topography with contour lines at no greater than five (5)-foot contour intervals; delineation of forested and open areas in the buffer zone, and detailed plans of all proposed land development in the buffer and of all proposed impervious cover within the setback. Additionally, a description of all proposed land development within the buffer and setback is required.

Sec. 5.17 REQUIRED BUFFERS

A buffer area shall be defined as that portion of a lot set aside for visual screening purposes, pursuant to the applicable provisions of this Ordinance, to separate different use districts and or uses on one property from uses on another property of the same use district or a different use district.

5.17.1 Transitional Buffers. Transitional buffers are buffers required between dissimilar zoning districts. Buffers shall be required in the following widths (in feet) between dissimilar zoning districts, unless otherwise stated in this Ordinance:

Zoning District	A-1	RE-1	RE-2	R-1	R-2	R-3	R-6	O/I	C-N	C-1	I-1	I-2	M-1
A-1	---	---	---	---	---	---	---	50 ¹	50 ²	50 ³	200 ⁴	500 ⁵	Fn ⁶
RE-1	---	---	---	---	---	---	---	50 ¹	50 ²	50 ³	200 ⁴	500 ⁵	Fn ⁶
RE-2	---	---	---	---	---	---	---	50 ¹	50 ²	50 ³	200 ⁴	500 ⁵	Fn ⁶
R-1	---	---	---	---	---	---	---	50 ¹	50 ²	50 ³	200 ⁴	500 ⁵	Fn ⁶
R-2	---	---	---	---	---	---	---	50 ¹	50 ²	50 ³	200 ⁴	500 ⁵	Fn ⁶
R-3	---	---	---	---	---	---	---	50 ¹	50 ²	50 ³	200 ⁴	500 ⁵	Fn ⁶
R-6	---	---	---	---	---	---	---	50 ¹	50 ²	50 ³	200 ⁴	500 ⁵	Fn ⁶
O/I	50 ¹	---	---	---	200 ⁴	500 ⁵	Fn ⁶						
C-N	50 ²	---	---	---	200 ⁴	500 ⁵	Fn ⁶						
C-1	50 ³	---	---	---	50 ⁴	100 ⁵	Fn ⁶						
I-1	200 ⁴	50 ⁴	---	50 ⁵	Fn ⁶								
I-2	500 ⁵	100 ⁵	50 ⁵	---	Fn ⁶								
M-1	Fn ⁶	---											

Footnotes:

- ¹ Buffer shall be located in property zoned O/I.
- ² Buffer shall be located in property zoned C-N.
- ³ Buffer shall be located in property zoned C-1.
- ⁴ Buffer shall be located in property zoned I-1.
- ⁵ Buffer shall be located in property zoned I-2.
- ⁶ Buffer shall be either 500 or 1000 feet in width, depending on use or type of mining. See Sec. 7.14.8. Buffer shall be located in property zoned M-1.

5.17.2 PUD Districts. Buffers in PUD districts shall be set according to the zoning district that corresponds to the proposed use and density, and shall be determined at the time the PUD status is granted by rezoning.

5.17.3 Special Agricultural Provisions.

In order to protect existing agricultural uses from encroachment by new development, the following provisions shall apply:

- .1 Major livestock facilities. When any property is rezoned from an A-1 District to any residential district and there is located on adjoining property an existing chicken house, meat processing facility, cattle barn, swine enclosure, commercial stable, or other major livestock enclosure, then no dwelling constructed on the newly rezoned property shall be located less than 100 feet from the adjoining property line on which any of the above are located and less than 500 feet from the closest point of any of the above referred to activities.
- .2 Minor livestock facilities. When any property is rezoned from an A-1 District to any residential district and there is located on adjoining property an existing chicken coop, private stable or minor livestock enclosure, then no

dwelling constructed on the newly rezoned property shall be located less than 100 feet from the adjoining property line on which any of the above are located and less than 200 feet from the closest point of any of the above referred to activities.

- 5.17.4 Special Exemptions. When property zoned C-1, C-N or O/I is separated by a city, county or state road or federal highway from residentially zoned property, no buffer shall be required. When property zoned I-1 is separated from property in a different zoning classification by a road or highway right-of-way of at least 100 feet in width, the required vegetative buffer for the I-1 property along such right-of-way shall be reduced to fifty (50) feet.
- 5.17.5 Buffer Opacity. Buffers shall be opaque to vision, to the height of eight (8) feet. If the buffer in its natural vegetative state is opaque at all times of year, no further improvement is needed. If the buffer is open or not sufficiently dense to be opaque, the owner shall be required to plant sufficient fast-growing vegetation to be opaque within one year. The Zoning Administrator may be consulted for appropriate vegetation. The buffer shall be maintained by the property owner. The buffer must be vegetated for its full width.
- 5.17.6 Buffer Standards. Buffers shall be undisturbed, except that buffer areas may be used for sewer and other utility easements, detention ponds, and access roads, and fences may be erected in buffer areas. No structures may be erected in buffers, and buffer areas shall be graded or disturbed only when absolutely necessary, after which time they shall be fully vegetated to an opaque state. Buffers shall be crossed in such a fashion to minimize incursion into the buffer (i.e., close to perpendicularly). Where possible, buffers shall be restored to an opaque standard after being crossed, and BMPs shall be followed at all times.
- 5.17.7 Fencing for Buffers. In addition to vegetative buffer requirements, an eight-foot high opaque fence shall be erected by the owner of any industrial (I-1 or I-2) or mining (M-1) property that requires a buffer. The fence may be erected along the property line, or within the buffer area, at the owner's discretion. The Zoning Administrator may administratively vary this requirement if sufficient vegetative buffer exists. All fencing erected in a buffer area shall be opaque, such as wood, masonry, stone, or chain-link with obscuring devices, and shall be at least eight feet high. Fences shall be erected prior to the beginning of construction of any structure.
- 5.17.8 Fencing for Livestock. Fences are required to contain all grazing areas or pasture areas for livestock. Such fences shall be of sufficient height, construction and strength to restrain the enclosed animals, in a reasonable and customary manner for that type of livestock.

ARTICLE VI

ADDITIONAL REGULATIONS FOR CERTAIN USES

Sec. 6.1 CONTINUANCE OF A NON-CONFORMING USE

Any pre-existing lawful non-conforming use of or vested right to use any building, structure or land existing as of August 31, 1986, may be continued subject to the restrictions contained in this Ordinance even though such use does not conform with the regulations of this Ordinance except that:

- 6.1.1 A non-conforming use or structure shall not be changed to another non-conforming use;
- 6.1.2 A non-conforming use or structure shall not be expanded, extended, or enlarged beyond the area of use, size of operation, height, and/or the size of the structures existing at the time the use became non-conforming.
- 6.1.3 Uses and structures made non-conforming by new provisions in this Ordinance shall be limited to the area of use, size of operation, height, and/or size of structures as existing on the date of adoption of this Ordinance.
- 6.1.4 Uses and structures made non-conforming by prior versions of this Ordinance shall be limited to the area of use, size of operation, height and/or size of structures as existing on the date of adoption of the relevant provision.
- 6.1.5 A non-conforming use or structure shall not be re-established after discontinuance for one year regardless of any reservation of an intent not to abandon.
- 6.1.6 A non-conforming use or structure shall not be rebuilt, altered, or repaired except as provided herein:
 - .1 If the structure is altered or repaired, said alterations or repairs shall be in conformity with the building codes in force at the time of said alteration or repair; provided, however, that said alteration or repair shall not extend or enlarge the structure being altered or repaired;
 - .2 If the structure is totally rebuilt, the replacement structure shall conform with all the requirements of this Ordinance, except as to the district; provided, however, said replacement structure may not occupy an area or height greater than the replaced structure.
- 6.1.7 Vehicles, trailers and other non-structures conditions cannot be non-conforming uses.

Sec. 6.2 INDIVIDUAL DETACHED SINGLE-FAMILY DWELLINGS

- 6.2.1 Any dwelling shall be constructed so as to at least comply at the time a building permit is issued with all applicable Standard Building Codes and state standard minimum codes currently in effect in Euharlee, shall comply with the applicable

standards of the zoning district, and shall meet any applicable standards of Sec. 6.32.

- 6.2.2 For construction purposes, a temporary utility connection may be approved by securing a building permit. Permanent utility installation will be allowed only after the final inspection of the building and approval of the building inspector.
- 6.2.3 Any dwelling which is damaged beyond repair by fire, natural or manmade disaster shall be removed and disposed of within a time period not to exceed sixty (60) days after said damage occurred. An extension of this time may be approved by the Zoning Administrator or his or her designated agent.

Sec. 6.3 MANUFACTURED HOUSES

Any dwelling that is classified as a manufactured house by the definitions stated in this Ordinance shall be subject to the following provisions of this Ordinance:

- 6.3.1 Purpose. The purpose of this Ordinance is to ensure that manufactured houses are installed on a site according to applicable federal and manufacturer's requirements; that manufactured houses are architecturally compatible with single-family residences and other land uses in Euharlee both currently and consistent with the Mayor and City Council's vision for future development in the City of Euharlee; and that pre-owned manufactured houses are in a safe and sound condition when they are relocated into the City of Euharlee.

- 6.3.2 Definitions

Applicant: Any person seeking to install a pre-owned manufactured house in the incorporated area of Euharlee.

Architectural features: Ornamental or decorative features attached to or protruding from an exterior wall, including cornices, eaves, gutters, belt courses, sills, lintels, bay windows, chimneys, and decorative ornaments.

Bay window: A window assembly whose maximum horizontal projection is not more than two feet from the vertical plane of an exterior wall and is elevated above the floor level of the home.

Building Inspector: The person appointed, employed, or otherwise designated as the director of planning, permits and inspections; the city building official or any of his or her assistants.

Certificate of Occupancy: A document issued by the building inspector certifying that a manufactured house is in compliance with applicable requirements set forth by this ordinance and indicating it to be in a condition suitable for residential occupancy.

Compatibility: With regard to buildings, compatibility means achieving harmony in appearance of architectural features in the same vicinity.

Dormer: A window projecting from a roof.

Eave: The projecting lower edges of a roof overhanging the wall of a building.

Install: To construct a foundation system and to place or erect a manufactured house on such foundation system. Such term includes, without limitation, supporting, blocking, leveling, securing, or anchoring such manufactured house and connecting multiple or expandable sections of such manufactured house.

Jurisdiction: The incorporated area of the City of Euharlee, Georgia.

Manufactured house: A structure, transportable in one or more sections, which, in the traveling mode, is eight body feet or more in width or 40 body feet or more in length, when erected on site, is 320 or more square feet in floor area, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained therein; or a structure that otherwise comes within the definition of a "manufactured home" under the National Manufactured Housing Construction and Safety Standards Act of 1974, as amended (42 U.S.C. 5401-5445).

Pre-Owned Manufactured House: Any manufactured house that has been previously used as a residential dwelling and has been titled.

6.3.3 Installation Permit and Certificate of Occupancy Required

- .1 No manufactured house shall be installed on any site without first obtaining an installation permit. An installation permit shall not issue unless the building inspector determines that:
 - (a) The site meets the requirements of the City's ordinance for the location of manufactured housing;
 - (b) The manufactured house complies with federal and state requirements applicable to manufactured housing; and
 - (c) The manufactured house, once installed, will comply with the provisions of this ordinance.
- .2 No manufactured house shall be occupied without a certificate of occupancy. The building inspector shall not issue a certificate of occupancy for a manufactured house unless it has been installed in compliance with federal and state laws and regulations, manufacturer's instructions, and unless it is in conformity with all the provisions of this ordinance.

6.3.4 Installation Requirements

- .1 Hauling Mechanisms Removed. The transportation mechanisms, including wheels, axles, and hitch, must be removed prior to occupancy.
- .2 Installation Regulations. The manufactured house shall be installed in accordance with the installation instructions from the manufacturer, as appropriate.

- .3 Approved Septic System. Each manufactured house shall be connected to a public sanitary sewer system, community sewerage system, or on-site septic system with capacity available as approved by the health officer.
- .4 Foundation. The manufactured house shall be placed on a permanent foundation.
- .5 Masonry Skirting. The entire perimeter area between the bottom of the structure of each manufactured house and the ground, including stairways, shall be underpinned with masonry that completely encloses the perimeter of the undercarriage and attached stairways except for proper ventilation and access openings.
- .6 Exterior Finish. The exterior siding of the manufactured house shall consist of wood or hardboard siding material.
- .7 Roof Pitch and Materials. The manufactured house shall have a pitched roof with a slope of at least 5 feet in height for each 12 feet in width. Roof materials shall be wood shake, tile, or asphalt shingle material.
- .8 Width and Square Footing. The manufactured house shall consist of two fully enclosed parallel sections and a total width of at least 20 feet. It shall be at least 1,200 square feet in conditioned living space.
- .9 Covered Porch. A covered porch or deck shall be provided facing the front yard or street prior to occupancy, with a 10-foot minimum depth and a minimum of 20 ft. in length
- .10 Additional Architectural Features. The manufactured house shall contain eaves with a minimum projection of six inches, window shutters, and at least one additional architectural feature such as dormers, bay windows, or another architectural feature that will provide equal compatibility with surrounding residences and land uses, as approved by the building inspector.

6.3.5 Legal Non-Conforming Residences

Legal non-conforming manufactured houses existing prior to the date of this ordinance may remain in use without complying with this ordinance; however, whenever a legal non-conforming manufactured house is replaced with a manufactured house, the replacement home shall comply with this ordinance. Whenever a non-conforming manufactured house falls into such a state of disrepair that the certificate of occupancy is revoked, in order for a certification of occupancy to be reissued, the manufactured house shall be brought into compliance with this ordinance.

6.3.6 Mobile Homes

No mobile homes, defined as units constructed prior to June 15, 1976, shall be allowed within the unincorporated area of Euharlee. Only manufactured houses constructed to the Federal Manufactured Home Construction and Safety Standards

governed by the National Manufactured Housing Construction and Safety Standards Act of 1974, as amended, 42 U.S.C. 5401, et seq. shall be permitted to be installed or relocated within unincorporated Euharlee. Pre-owned manufactured houses relocated into or within Euharlee, Georgia, must comply with the provisions of this ordinance.

6.3.7 Pre-Owned Manufactured Houses

In addition to the other requirements of this ordinance, the relocation and installation of pre-owned manufactured houses shall be subject to the following health and safety standards and conditions and inspection program.

- .1 Relocation Permit. A permit shall be required to locate a pre-owned manufactured house in the jurisdiction. To obtain a relocation permit, applicants shall provide to the building inspector:
 - (a) An affidavit signed by the applicant that the pre-owned manufactured house meets health and safety standards required by this ordinance;
 - (b) Photographs of the interior and exterior of the pre-owned manufactured house providing evidence that the house meets the minimum health and safety standards of this ordinance; and
 - (c) The permit and inspection fee required by subsection .4 of this section.
- .2 Inspection. Upon receipt of a relocation permit, applicants may relocate the manufactured house onto a residential site of the proper zoning classification for the purposes of inspection. Applicant shall arrange for an inspection to be held prior to the installation of the manufactured house. At such time as the building inspector certifies that the manufactured house meets the requirements of this ordinance, applicants may install the manufactured house in accordance with the requirements of this ordinance.
- .3 Certificate of Occupancy. A certificate of occupancy shall be issued to the applicant after installation and at such time that the building inspector certifies that the requirements of this ordinance have been met.
- .4 Fee. A permit and inspection fee in an amount set by the City Council shall be charged to the applicant to cover the cost to process the permit application and inspect the pre-owned manufactured house. Such fee shall cover the initial inspection and one follow-up inspection. The applicant shall be charged an additional amount set by the City Council for each additional follow-up inspection that may be necessary.
- .5 Alternative Inspection. At the request of the applicant, the building inspector may, at his or her discretion, inspect a pre-owned manufactured house prior to its being relocated if the house is then located at another site within Euharlee or within a convenient distance of the City of Euharlee. In the event that the building inspector travels outside of Euharlee to inspect a pre-owned manufactured house, applicant shall pay mileage at the then-applicable federal reimbursement rate from the office of the building

inspector, to the site of the inspection, and back to the office of the building inspector.

- .6 Rehabilitation. At the request of the applicant, and where the building inspector finds that rehabilitation of a pre-owned manufactured house that does not meet the health and safety standard of this ordinance can be accomplished in a reasonably short period of time and without causing any detriment to the neighborhood where the pre-owned manufactured house will be relocated in the City, the building inspector may issue the relocation permit and delay inspection for a period of up to 45 days to allow for rehabilitation after the pre-owned manufactured house has been relocated into the City. The building inspector shall not grant such request unless the applicant presents satisfactory evidence of a feasible rehabilitation plan. The pre-owned manufactured house shall not be connected to utilities until the inspection is performed and a certificate of occupancy is issued.

6.3.8 Minimum Health and Safety Standards

All pre-owned manufactured houses shall comply with the following health and safety standards before being issued a certificate of occupancy by the building inspector:

- .1 HUD Code. Every pre-owned manufactured house located in the jurisdiction shall be in compliance with the Federal Manufactured Housing Construction and Safety Standards Act, 42 U.S.C. 5401-5445 (the HUD Code) and shall not have been altered in such a way that the home no longer meets the HUD Code.
- .2 Interior Condition. Every floor, interior wall, and ceiling of a pre-owned manufactured house shall be in sound condition. Doors and windows shall be operable, watertight and in good working condition. The floor system shall be in sound condition and free of warping, holes, water damage, or deterioration.
- .3 Exterior Condition. The exterior of all pre-owned manufactured houses shall be free of loose or rotting boards or timbers and any other conditions that might admit rain or moisture to the interior portions of the walls or to occupied spaces. The exterior siding shall be free of rot and rust. Roofs shall be structurally sound and have no obvious defects that might admit rain or cause moisture to collect on the interior portion of the home.
- .4 Sanitary Facilities. Every plumbing fixture, water, and waste pipe of a pre-owned manufactured house shall be in a sanitary working condition when properly connected and shall be free from leaks and obstructions. Each home shall contain a kitchen sink. Each bathroom shall contain a lavatory and water closet. At least one bathroom shall contain a tub and/or shower facilities. Each of these fixtures shall be checked upon being connected to ensure they are in good working condition.
- .5 Heating Systems. Heating shall be safe and in working condition. Unvented heaters shall be prohibited.

- .6 Electrical Systems. Electrical systems (switches, receptacles, fixtures, etc.) shall be properly installed and wired and shall be in working condition. Distribution panels shall be in compliance with the approved listing, complete with required breakers, with all unused openings covered with solid covers approved and listed for that purpose. The home shall be subject to an electrical continuity test to assure that all metallic parts are properly bonded.
- .7 Hot Water Supply. Each home shall contain a water heater in safe and working condition.
- .8 Egress Windows. Each bedroom of a manufactured house shall have at least one operable window of sufficient size to allow egress if necessary, which shall have a net clear opening that is a minimum of 5 square feet in area, 24 inches in height, and 20 inches in width. The opening shall have a sill height of not more than 44 inches above the floor. The opening shall be operational from the inside of the room without the use of keys, tools or special knowledge.
- .9 Ventilation. The kitchen in the home shall have at least one operating window or other ventilation device.
- .10 Smoke Detectors. Each pre-owned manufactured house shall contain one operable battery-powered smoke detector in each bedroom and in the kitchen, which must be installed in accordance with the manufacturer's recommendations.
- .11 State Law and Regulations. Each pre-owned manufactured house shall be installed in compliance with the requirements of Georgia law, O.C.G.A. § 8-2-160 et seq., and the rules and regulations adopted pursuant to that law, as they may be amended from time to time.

6.3.9 Enforcement

- .1 Permanent connection to utilities shall not be approved until the building inspector has issued a certificate of occupancy.
- .2 Owners of pre-owned manufactured houses that are not in compliance with this ordinance upon a third inspection shall have their permit revoked and shall be required to remove the home from the jurisdiction at their own expense.
- .3 Failure to remove a pre-owned manufactured house from the jurisdiction upon failure to receive a certificate of occupancy shall be punishable by a fine of \$100.00. Each day any violation under this ordinance continues shall be considered a separate offense.

6.3.10 Variances and Appeals

- .1 The Planning and Zoning Commission of the City of Euharlee is empowered to issue variances from the strict application of this ordinance when:
 - (a) It is necessary to avoid undue injury or hardship to any person;
 - (b) The injury or hardship is not of the person's own making; and
 - (c) The variance is not inconsistent with the purpose of this ordinance.
- .2 Appeals of decisions of the building inspector under this ordinance may be made to the Planning and Zoning Commission. Appeals of decisions of the Planning and Zoning Commission may be made to the Superior Court of Bartow County, by writ of certiorari.

6.3.11 Commercial or Industrial Sales Office. A manufactured house used for a commercial or industrial sales office shall comply with this Ordinance and O.C.G.A. § 8-2-160 et seq. pertaining to the installation and setup of the unit. Use of this structure for living purposes is strictly prohibited.

6.3.12 Temporary Commercial Construction Use. Manufactured house units used temporarily during commercial construction are required to be registered with the Zoning Administrator. They shall not exceed twenty-four (24) months at any one site or the duration of related construction projects unless approved by the Zoning Administrator.

6.3.13 Use for Storage Prohibited. Manufactured house units (or mobile homes) may not be used for storage buildings. Manufactured houses may only be placed in compliance with the terms of this Ordinance and used as dwelling units.

6.3.14 Decal. A location decal application shall be required to be filed for a manufactured house in the office of the Tax Commissioner annually for each manufactured house that is henceforth located on an individual lot, in a manufactured house park, or subdivision in Euharlee.

6.3.15 Expansion of Manufactured House Parks Prohibited. There shall be no expansion of manufactured house parks.

Sec. 6.4 TEMPORARY PLACEMENT OF A MANUFACTURED HOUSE

6.4.1 Other than in a residential subdivision development, the owner of a lot upon which a single-family dwelling is being constructed may, upon first obtaining a temporary permit from the Zoning Administrator, temporarily place a manufactured house on said lot for use as a temporary dwelling for a period of twelve (12) months or until construction of the dwelling is completed, whichever shall first occur.

6.4.2 The application for a temporary permit shall have attached thereto a separate statement of the applicant that he acknowledges and agrees that the permit, if granted, is valid only for the time specified and that upon completion of the dwelling or the expiration of the permit, as the case may be, the applicant shall

cause the removal of said manufactured house and the applicant's failure to do so grants to the City of Euharlee the right to remove the same from the lot at applicant's expense.

6.4.3 The manufactured house must be at least HUD approved.

Sec. 6.5 TEMPORARY SALES OR CONSTRUCTION TRAILERS OR OFFICE STRUCTURES

A temporary sales or construction trailer or office structure may be placed at the entrance of any active development, upon obtaining a permit from the Zoning Administrator, for a period of time not to exceed twenty-four (24) months or until the development ceases to be under active development, whichever shall first occur. The developer shall site said structure in conformance with the setbacks provided for in this Ordinance applicable to its zoning, shall landscape around said structure so that it presents a neat and attractive appearance, and shall otherwise maintain said property in conformity with this Ordinance. Upon the expiration of the 24-month period, or upon completion of at least 90% of the development or sales of 90% of the units, whatever first occurs, the structure shall be removed from the property at the expense of the developer.

Sec. 6.6 GUEST HOUSES

Guest houses are only permitted in zoning districts A-1, RE-1, and RE-2, on lots at least three acres in size, or in R-1 on lots of at least two acres in size. Only one guest house is permitted per lot. The guest house must be located in the rear yard of the property, at least 35 feet from the side and rear property lines. Property that has been permitted for a guest house may not be subdivided, nor may the guest house be split into a separate lot.

6.6.1 An owner of property seeking a guest house must apply for a permit with the Zoning Administrator, and must submit plans for the structure and the sewer or septic system with the application. The total square footage of a guest house may not exceed three-quarters of the total square footage of heated living space of the principal residence, but in no event may a guest house be smaller than 1,000 square feet.

6.6.2 If the principal use on the property is connected to a public sewer, the guest house must be connected to the sewer on its own tap and meter. If the property is not connected to public sewer, the guest house may not tie onto the primary use's septic system, but must have its own system. Furthermore, if the property is not connected to sewer, a guest house shall not be permitted unless the Bartow County Health Department determines that there is enough property to provide sufficient replacement area for the principal use, sufficient area for a separate system for the guest house, and a separate replacement area for the guest house system. A letter of approval from the Health Department must be provided to the Euharlee Building Inspectors Department certifying these facts before a building permit may be issued.

Sec. 6.7 HOME OCCUPATIONS AND HOME OFFICES

Home Occupations. Home Occupations are permitted in zoning districts as listed in Article VII. No home occupation shall occupy more than thirty (30) percent of the heated floor space of the principal use building. No separate building or structure may be constructed to house a

home occupation. A home occupation must be a use that is clearly incidental and secondary to the use of the dwelling as a residence and that does not change the character thereof or reveal from the exterior that the dwelling is being used in part for other than a residence. No non-resident of the home may work in the home occupation (i.e., no non-resident employees). There shall be no display, stock in trade, or commodity sold on the premises, and no mechanical equipment used except such as is commonly used for purely domestic household purposes. Such permissible occupations include, in general, such personal services such as are furnished by a musician, artist, seamstress, cook, or laundress, consultant, telecommuter, or other occupation which does not generate non-residential traffic nor has non-occupant employees, but shall not include such uses as barbershops, beauty parlors, tea rooms, animal hospitals, animal grooming, or a wholesale, retail or manufacturing business. No signs related to the home occupation are allowed.

Home Offices. Home offices are permitted in any home, allowing the occupant to work from home, or to manage a business licensed as a “mobile business.” No customers, suppliers or vendors shall be permitted at a home office. Employees are not permitted to report to work, receive assignments, or pick up vehicles at a home office. No non-resident of the home may work in the home office (i.e., no outside employees may work in the office). See also section 6.33.

Sec. 6.8 OFF-STREET AUTOMOBILE PARKING AND STORAGE

Except in the C-1 General Business District, off-street automobile parking or storage space shall be provided on every lot. Such automobile parking or storage space shall be provided with vehicular access to a street or alley and shall be equal in area to at least the minimum requirements for the specific use as set forth below. Each off-street parking space shall be at least eight (8) feet, six (6) inches wide and eighteen (18) feet deep. See the *Euharlee Site Plan Review Ordinance* for further information.

Sec. 6.9 OFF-STREET LOADING AND UNLOADING SPACE

Every building or structure used for business, trade, or industry shall provide space for the loading and unloading of vehicles off the right-of-way of the street or public alley. Such space shall have access to an alley or if there is no alley, to a street. Such space shall have at least fourteen (14) feet of vertical clearance. Such space shall be so arranged that no vehicle is required to back onto a public street, road, or highway in order to leave the premises.

Sec. 6.10 JUNK YARDS; SALVAGE YARDS; SCRAP YARDS

Any existing junk yard (including salvage yards and scrap yards) which is a non-conforming use under this Ordinance, or any new junk, salvage or scrap yard, shall construct a fence along the outer edge of the property. Said fence shall be at least eight (8) feet in height or as high as necessary to blind said property from adjoining property owners and shall be constructed of masonry, ventilated redwood, cedar, chain-link fence with opaque material or other similar materials. Provided, however, a natural blind that exists between properties which adequately blinds said property from the adjoining property may be deemed to comply with this paragraph upon approval of the Zoning Administrator.

Any stacking of inoperable, crushed or otherwise damaged vehicles shall only be permitted in a junk yard. Impound lots, towing services and similar businesses shall be permitted to retain

junk, inoperative or abandoned vehicles for a maximum of 120 days before disposal; long-term or permanent storage of such vehicles shall only be permitted in a junk yard.

Sec. 6.11 OCCUPANCY OF RECREATIONAL VEHICLES; RESIDENTIAL LIVING

Recreational vehicle parks or RV campgrounds shall only be located in A-1 districts as a conditional use. No recreational vehicle shall otherwise be occupied as a temporary or permanent residential living quarter except in conformance with this Section or the provisions of Article X.

No lot in any residential, agricultural or multi-family zoning district may be used for temporary or permanent residential living quarters unless a permanent dwelling unit has been lawfully erected on the lot, pursuant to the provisions of this Ordinance and applicable building and safety codes. Indications that a property is being used as temporary or permanent residential living quarters include actions such as spending significant time at the location on more than one day, repeated eating and sleeping at the location, and performing other life activities at the location repeatedly. Vehicles (including recreational vehicles), tents, boats and other similar structures cannot be used for residential living quarters on a permanent or temporary basis, except as follows.

- 6.11.1 Recreational vehicles can be occupied as temporary dwellings as a temporary accessory use, for no more than 10 days in any two-month period, only if there is a permanent dwelling unit as a principal use on the lot, and only if the vehicle is parked in conformance with this Ordinance. No more than one recreational vehicle can be so occupied on the same lot.
- 6.11.2 Tents, boats, and others structures that are not permitted permanent dwelling units cannot be occupied either on a permanent or temporary basis on a residential lot, except that tents may be occupied for no more than three days in any two-month period when erected in the rear yard of a permanent dwelling unit.
- 6.11.3 Recreational vehicles must be parked in accordance with Sec. 6.16.
- 6.11.4 Recreational vehicles can be occupied in recreational vehicle parks pursuant to the provisions of Article X.
- 6.11.5 Recreational vehicles cannot be occupied as manufactured houses.
- 6.11.6 Recreational vehicles cannot be used as storage buildings.

Sec. 6.12 JUNK, ABANDONED, INOPERABLE OR UNREGISTERED VEHICLES

- 6.12.1 No automobile, vehicle or trailer of any kind or type, without a valid license plate attached thereto, shall be parked or stand on any residentially zoned property or other zoned property unless it shall be in a completely enclosed building or on property properly zoned as a junk yard, except for such off-road vehicles which by law do not require a license plate, provided the same is in operating condition.
- 6.12.2 No automobile, vehicle or trailer of any kind or type, which shall be inoperative or in a junk condition, or abandoned, shall be parked or stand on any property unless:

- .1 it shall be in an enclosed building;
 - .2 it shall be on the premises of a business enterprise operated in a lawful manner, when necessary to the operation of such business enterprise; or,
 - .3 it shall be on property lawfully occupied and used for repair, reconditioning or remodeling of vehicles in conformance with the Zoning Ordinance of Euharlee.
- 6.12.3 A vehicle in inoperative or junk condition shall include, but shall not be limited to, any automobile, vehicle, trailer of any kind or type, or contrivance, or a part thereof, the condition of which is one or more of the following: 1) wrecked; 2) dismantled; 3) partially dismantled; 4) inoperative; 5) abandoned; 6) discarded; 7) scrapped; or 8) does not have a valid license plate attached thereto.
- 6.12.4 Nothing in this section shall authorize the maintenance of a public or private nuisance as defined under other provisions of law.
- 6.12.5 This section shall not be the exclusive regulation of abandoned, discarded, dismantled, wrecked, scrapped, ruined or junk motor vehicles, or contrivances, within the incorporated limits of the City, but shall be supplemental to and in addition to other regulations and ordinances of the City and statutes or provisions of law heretofore and hereinafter enacted by the City, State or other legal entity or agency having jurisdiction. See also, Sec. 6.18.
- 6.12.6 In all instances where the owner of any abandoned, inoperative, or junk motor vehicle and/or trailer cannot be determined, or when such vehicle is abandoned on public property or a non-owner's property, such junk or abandoned motor vehicle and/or trailer shall be removed under the authority and provisions of Chapter 40-11 of the Georgia Code Annotated. If on public property, such vehicle may be removed after five days; if on private property, it may be removed after 30 days.
- 6.12.7 In all instances where the owner of any junk, inoperative, unregistered, or abandoned motor vehicle and/or trailer refuses to remove, enclose or register (or, if requested, refuses to give consent for the city to remove) any such vehicle or trailer currently in violation of this Ordinance, the City shall be empowered to seek an order from superior court authorizing the City to remove and dispose of such vehicle or trailer. In addition, if the vehicle or trailer is determined to be a health hazard or a nuisance, the City shall be empowered to seek an order from superior court authorizing the City to remove and dispose of such vehicles. Such orders shall be authorized if the vehicle has been in violation of this Ordinance for more than 20 days.
- 6.12.8 For purposes of repair or restoration, one inoperable and unregistered vehicle may be kept in the rear yard of a property, provided it is not visible from the street, is screened from all neighbors by a privacy fence in the rear yard, and is repaired or restored, removed, or placed in a fully enclosed building, within six months. Such vehicle shall not be stored in any side yard or any setback or buffer area.
- 6.12.9 Use of Vehicle or Trailers for Storage Prohibited. Neither vehicles (whether operable or inoperable) nor trailers (whether on or off their axels) may be used as

storage buildings. This shall apply to all vehicles and trailers, including commercial vehicles, panel vans, tractor-trailer rigs, railroad box-cars, etc. However, tractor-trailer rigs and trailers may be used for temporary storage on property zoned A-1, C-1, I-1, I-2 or M-1 only by businesses operating on the same property. Temporary storage means no particular trailer may remain longer than three months.

Sec. 6.13 INDUSTRIALIZED HOMES

All industrialized homes shall meet the standards of Sec. 6.32, shall meet the requirements of the Department of Community Affairs, and shall be installed in accordance with the provisions of O.C.G.A. § 8-2-110 et seq. and regulations promulgated thereunder. The dwelling must be placed on a foundation and a curtain wall, unpierced except for required ventilation and access, and must be installed so that it encloses the area located under the home to ground level. Such a wall shall have a minimum thickness of four (4) inches and shall be constructed of masonry or similar material as approved by the Zoning Administrator.

Sec. 6.14 DEBRIS FILLS

“Debris fills” are prohibited, including debris fills at all construction sites and within any development, and including bury pits. The burying of construction debris, cleared trees and shrubs, and similar by-products of development, is strictly prohibited. All solid waste, demolition debris and construction debris generated from construction must be properly disposed of in a landfill. However, Fills, defined as earth embankments for construction purposes (as opposed to disposal purposes) made up of soil materials, are acceptable using acceptable soil materials. Acceptable soil materials are as follows: gravel, silt, clay, sand or loose rock up to 6 inches in diameter. All Fills shall be marked on the recorded plat and site plans. No Fill may exceed 250 cubic yards without an administrative variance from the Zoning Administrator. See also, Sec. 6.29.

Sec. 6.15 STORAGE OF TIRES

The storage of new or used tires on any property is prohibited unless the same are stored within an enclosed building or garage. It is illegal to discard or abandon tires on any property other than a lawful landfill.

Sec. 6.16 RECREATIONAL VEHICLE PARKING

Recreational vehicles parked in any residential zone or residentially-used area shall not be permitted to be parked in any required set-back or buffer area, nor in any front-yard area. Recreational vehicles on residential property shall only be parked in the side or rear yard, within setbacks. No more than two recreational vehicles shall be parked on any single residential lot.

Sec. 6.17 COMMERCIAL VEHICLE PARKING

Commercial vehicles parked in any residential zone or residentially-used area shall not be permitted to be parked in any required set-back or buffer area, nor in any front-yard area. Commercial vehicles on residential property shall only be parked in the side or rear yard, within setbacks. No more than two commercial vehicles (trailers counted separately if separated from a tractor) shall be parked on any single residential lot. The Zoning

Administrator shall be permitted to grant a hardship administrative variance to allow up to four commercial vehicles to park on one lot (for example, if four family members living there each drive a commercial vehicle home from work), but in no circumstance shall such variance be used to permit employees to report to a residential structure on a daily basis to pick up commercial vehicles for the company's operation.

Sec. 6.18 APPEARANCE OF PROPERTY

In order to preserve the aesthetic beauty of Euharlee, and protect against nuisances, hazards, vermin and odor, among other hazards, and to preserve the property values of surrounding property, all property in Euharlee shall be required to comply with the following provisions:

- 6.18.1 All property (other than where explicitly permitted, such as a junk yard or salvage yard) must be free of the following: scrap metal; junked, inoperative or broken appliances (including engines and vehicles or parts of vehicles); junked, inoperative or broken equipment (such as lawn mowers, bicycles, machines); construction or demolition debris; other waste, garbage or refuse such as old tires, discarded carpet, discarded household furniture, bottles, cans, or similar; stumps, branches, dirt, and other debris from land disturbance and grading (except incident to a permit under the *Euharlee Soil Erosion and Sedimentation Ordinance* for the subject property and/or pursuant to lawful construction on the subject property); and household trash (except in a trash container). Such items may be kept in an enclosed building or enclosed garage erected pursuant to a building permit or otherwise lawfully permitted, but may not be kept in the open. Containers at the curb for garbage collection shall be placed for collection no sooner than 24 hours before the day of collection and shall be removed from the curb within 24 hours of the day of collection.
- 6.18.2 All property, whether residential, commercial or industrial, containing a grass lawn (for example fescue, rye, bluegrass, bermuda, zoysia or similar grasses), landscaping strips, or other landscaping must keep the grass cut to below 12 inches in height and prevent the growth of shrubbery, weeds or other landscaping to the point where any windows or doors in a structure are obscured or blocked. Grass fields grown for grazing or other agricultural purposes and sod farms shall be exempt, except that in no event shall the front and side yards of a residentially-used structure be exempt. Property owners may request an administrative variance from the Zoning Administrator for permission not to cut vacant or undeveloped lots in residential or commercial areas, or for other hardship circumstances.
- 6.18.3 Storage of lumber, dumpsters, shipping containers, wood pallets, pipe, concrete blocks, other construction material, or other commercial material, or any commercial inventory (including products for sale, use or repair in off-site businesses), shall be prohibited on residentially zoned or residentially-used property, unless associated with or required by a permitted use on the property (including repair or construction of a structure that is itself a permitted use, such as construction of a single-family residence).
- 6.18.4 Donation Box Standards

As used in this section, the term "donation box" shall be defined as follows:

Donation box shall mean any unattended container, receptacle, or similar device used for soliciting and collecting donations of clothing and/or other salvageable personal property. This term does not include any unattended donation box location within a building which is permitted by right or the public library drop boxes for books and audio visual items.

In addition to accessory uses otherwise permitted in this chapter, donation boxes may only be installed by obtaining a permit under the following conditions and requirements:

- .1 Application. Prior to delivery and/or installation of any donation box, an application shall be filed with the Planning and Zoning Administrator or his/her designee identifying the size, color, and location of each donation box, as well as any signage proposed on the exterior of the donation box. A permit shall be required for each donation box installed within the city limits. This will include a drawing with the location of placement on the site.
- .2 Zoning. Donation boxes shall only be permitted within the C-1 zoning district and shall be excluded from the City's historic district.
- .3 Approval of property owner. As a part of the application process, a letter must be provided from the owner of the property indicating they are aware of and approve the installation of a donation box on their property, including that they are aware of their responsibility to maintain the current operator contact information and, if necessary, maintain or remove the donation box if the operator does not follow the provisions of this ordinance.
- .4 Fees. Fees shall be as adopted by the city council in the schedule of fees and kept on file in the city clerk's office.
- .5 Size. Donation boxes shall be limited to no more than 96 cubic feet (four feet wide; times four feet deep; times six feet tall). The height of each donation box shall not exceed six feet in height from finish grade to the highest point of the roof.
- .6 Color. Donation boxes shall be painted or stained with a low reflectance and subtle, neutral or earth-tone color scheme. High-intensity colors, metallic colors, black, or fluorescent colors shall not be used.
- .7 Number of boxes permitted. No more than two donation boxes shall be permitted on each individual lot.
- .8 Location. Donation boxes shall be installed on a surface as approved by the Planning and Zoning Administrator per the drawing for permitting purposes. Donation boxes shall not be located within any building setback or established buffer area. Donation boxes shall not be located in such a manner that they block sight lines on the subject tract as determined by the Planning and Zoning Administrator. To the extent feasible, donation boxes shall be placed so as to be inconspicuous as viewed from the public right-of-way.

- .9 Signage/contact information. The total square footage for all signage on each donation box shall not exceed two square feet. An additional sign shall contain the following contact information: the name, address, email, and phone number of both the property owner/manager and operator; it too shall not exceed two square feet.
- .10 Cleanliness of premises. Donation boxes shall be maintained in good condition and appearance with no structural damage, holes, or visible rust, and shall be free of graffiti. All boxes shall be free of debris and shall be serviced regularly so as to prevent overflow of donations or the accumulation of junk, debris, or other material. The public can be subject to fines if leaving graffiti on boxes, if improperly disposing of items, or if using as a waste container for non-salvageable items.
- .11 Revocation of permit. Any permit granted pursuant to the provisions of this section may be subject to revocation for cause by the Planning and Zoning Administrator (or his/her designee), including, but not limited to, the failure to comply with this section or any other applicable provisions of the City Municipal Code.
- .12 Renewal of permit. The term of the permit shall expire one year from the date of issuance. An operator may apply for permit renewal by submitting to the Planning and Zoning Administrator, before the expiration of the permit, a renewal application and associated fee.
- (a) No person to whom a permit has been issued shall transfer, assign, or convey such permit to another person.
- (b) Prior to expiration of the permit, the permittee may voluntarily cancel the permit by notifying the Planning and Zoning Administrator in writing of the intent to cancel the permit. The permit shall become void upon the director's receipt of a written notice of intent to cancel the permit.
- (c) Donation boxes shall be removed when the property becomes vacant or has been foreclosed upon.
- .13 Approval/denial or permit. The Planning and Zoning Administrator shall approve a new or renewal permit application if he/she finds that no circumstances exist at the time the application is reviewed or existed at any time during which the previous permit was in effect that are inconsistent with any requirement in this section.
- .14 Display of permit. The operator of the donation box and the property owner shall be responsible for maintaining the permit for each donation box required by this section. The Planning and Zoning Administrator shall inspect each donation box following its installation to ensure the donation box is installed in accordance with the approved permit. Once it is determined the donation box complies with said permit, a check mark shall be affixed to the actual donation box or to the entrance door of the place of business indicating the donation box has been approved. The purpose of this

shall be to notify city officers and employees that the donation box complies with the provisions of this chapter and the approved donation box permit application.

Sec. 6.19 SALE OF AUTOS AND VEHICLES

In a residential zoning district or residentially-used area, sales of autos and other vehicles from such property shall be limited to no more than six vehicles per year. No more than two such vehicles shall be parked in the front yard of any property at any one time. Any greater number of sales or vehicles displayed for sale shall constitute a commercial operation, which shall only be permitted in the C-1 commercial zoning district.

Sec. 6.20 DISPLAY OF PROPERTY ADDRESS NUMBERS

All residential, commercial and industrial structures shall be required to display numbers indicating the street address of their property, in accordance with the direction of the City Manager, who shall also approve street names. Such numbers shall be placed so as to be clearly visible from the street, as detailed below. Commercial and industrial structures shall display numbers at least four inches high. All numbers shall be of a contrasting color with their background so as to be readily visible.

6.20.1 If the mailbox is located on the same side of the street and adjacent to the driveway or curb cut, the number shall be affixed to the mailbox. This section does not preclude an individual from also numbering the front entrance of the structure if so desired. If the mailbox is not on the same side of the street and adjacent to the driveway or curb cut, the number shall be posted at two locations:

- .1 On the mailbox as prescribed by U. S. Postal Service Regulations, and;
- .2 Either on the structure front if visible from the street or on an above-ground sign attached to a post or other object at the driveway or curb cut. The numbers shall be three inches in height or larger and of a color contrasting with the color of the background. This section does not preclude an individual from also numbering the front entrance of his or her structure if so desired.

6.20.2 In the case that a building is served by two or more driveways or curb cuts, the number shall be assigned and posted to the front entrance or driveway. It shall be the duty of the owner, occupant or person in charge of the dwelling unit, structure or use, upon affixing the new number, to remove any different number which might be mistaken for or confused with the number assigned to the structure. In such cases where the assigned number cannot be posted as required above, the number shall be posted as prescribed by the Zoning Administrator after consultation with the owner.

Sec. 6.21 SWIMMING POOLS

Swimming pools are permitted as accessory uses in residential zoning districts. Swimming pools are only permitted to be located in the side or rear yards of a property. All portions of a swimming pool (including the pool itself; any recirculation pumps, sumps, heaters, filtration or treatment systems, chemical tanks, or pool-related machinery) shall be set back at least 10

feet from the side and rear property lines. Any swimming pool shall be enclosed with a solid or chain-link fence not less than four (4) feet in height, except where the tops of the sides of an above-ground pool are at least forty-eight (48) inches above grade (on all sides), and the ladder or steps can be readily removed to prevent access. In the event that only part of an above-ground pool fails to meet this requirement, a fence for such portion shall be required. Swimming pools shall further comply with the Bartow County Board of Health Swimming Pool and Spa regulations, and in the event any of these regulations conflict, the stricter regulation shall control.

Sec. 6.22 EXTENDED STAY HOTELS AND MOTELS

No extended stay hotel or motel shall be located on property that is within 1,000 feet of another hotel or motel, or within 1,000 feet of any residentially zoned property.

Sec. 6.23 CEMETERIES AND FAMILY PLOTS

6.23.1 Family Plots. Family plots are burial grounds restricted to members of the family owning the land. Family plots are permitted in the A-1 district, not to exceed 12 grave sites, and only on lots of five acres or greater. Family plots must be located in the rear yard of said property, at least 25 feet from the side and rear lot line. Such plots must comply with all other state regulations regarding burial.

6.23.2 Cemeteries. Cemeteries are burial grounds, generally where multiple burial plots are sold or provided for burial of persons beyond the immediate family. Cemeteries are permitted as conditional accessory uses to churches and are permitted in the A-1 district as a conditional use. All cemeteries must be located on at least five acres and shall have a 25-foot vegetative buffer where adjacent to any residentially zoned or used property.

6.23.3 Marking and Boundaries. All family plots and cemeteries must be marked on plats and surveys of property, and if not clearly ascertainable, the boundaries must be marked by fencing or other monuments or markers. All abandoned or historic cemeteries must be maintained by the property owner.

Sec. 6.24 NON-RESIDENTIAL ACCESSORY USES IN RESIDENTIAL DISTRICTS

When permitted as a conditional use or use of right, non-residential accessory uses in residential districts shall be set back at least 50 feet from the property line, and shall be screened by a 25-foot vegetative buffer. Any institutional-type use (such as school, hospice, day care and similar), shall also have a six-foot wooden fence on the inner or outer boundary of the buffer where adjacent to residentially used property.

Sec. 6.25 RESIDENTIAL TREATMENT CENTERS, REHABILITATION AND TREATMENT FACILITIES, AND SHELTER CARE FACILITIES

Any residential treatment center, rehabilitation and treatment facility, or shelter care facility shall be located on property of at least three acres. When adjacent to residentially zoned or used property, a 25-foot landscaped buffer shall be provided. Any such facility shall be surrounded by an opaque wood fence at least six feet high along all property lines with adjacent commercial uses or that abut other zoning districts, or along the inner or outer boundary of any required buffer. No fence shall be erected along the road frontage.

Sec. 6.26 GROUP HOMES FOR PERSONS WITH A DISABILITY

Group homes for persons with a disability, when located in a residential or agricultural district, shall be located on property of at least two acres in size, and the structure on such property shall be set back at least 50 feet from all adjacent property lines.

Sec. 6.27 PLACEMENT OF ONE ADDITIONAL MANUFACTURED HOUSE

- 6.27.1 One manufactured house in addition to the primary structure (whether conventional, industrial, or manufactured house) may be allowed in the A-1 or RE-2 districts on lots of at least three acres, for occupancy by an immediate family member. The house to be placed must meet all requirements of Sec. 6.3 above.
- 6.27.2 To obtain permission from the Zoning Administrator, the property owner must first submit: 1) a Family Purpose Affidavit to the Zoning Department affirming the proposed occupant's status as an immediate family member; 2) a plat showing the location of the primary structure and the proposed manufactured house, which must meet all setback requirements of the A-1 district and must be located in the rear yard; and 3) if on septic system, a letter of approval by the health department confirming the availability of appropriate soil and land area sufficient to meet the minimum area necessary to allow sufficient area for the new septic system and replacement area for the original and new systems.
- 6.27.3 An additional manufactured house's septic system may not tie onto the main structure's system.
- 6.27.4 A manufactured house occupied by an immediate family member of a property owner shall not be considered for purposes of determining whether a manufactured house park exists. If the manufactured house ceases to be occupied by an immediate family member, the manufactured house shall then be considered the same as any other manufactured house for purposes of determining whether a manufactured house park exists. If a manufactured house park is found to exist, and the zoning district does not permit same, the house shall be removed.
- 6.27.5 For purposes of this provision, the term "immediate family member" means a child, grandchild, parent, grandparent, sibling or step-child. A Family Purpose Affidavit may be obtained at the Zoning Department.

Sec. 6.28 CONSTRUCTION EXITS

A temporary construction exit must be installed and maintained for any land disturbance or other construction occurring in the City. Such exit must be maintained while any construction and/or grading equipment will be leaving a construction site to a public right-of-way, street, or parking area until construction is completed. (The construction exit may be the same as the driveway exit.)

- 6.28.1 The pad shall be adequate to substantially eliminate the transport of mud from the construction site by either motor vehicles or equipment or from water run-off.
- 6.28.2 Any materials or mud spilled, dropped, washed, or tracked from vehicles or from the site onto roadways or into storm drains must be removed within 24 hours or the

City may perform any necessary corrective work and the owner/developer shall reimburse the City for any expenses incurred. In the event the City undertakes the corrective work, no building permits for said development shall be issued until said expenses have been reimbursed to the City.

- 6.28.3 The exit pad of gravel or stone must be at least twelve (12) feet in width by twenty (20) feet in length with a depth of four (4) inches, and a geo-textile pad underneath. The pad may be required to be an additional width, length, and/or depth if, in the opinion of the City, conditions so warrant.
- 6.28.4 In addition, construction sites other than one- and two-family dwellings must comply with the Euharlee Soil and Erosion Ordinance.

Sec. 6.29 LANDFILLS

- 6.29.1 Landfills are only permitted in the I-2 Heavy Industrial district as a conditional use. Permitted landfills are classified into three types: 1) inert landfills; 2) construction and demolition landfills; and 3) solid waste landfills. Each type of landfill is defined below:
 - .1 “Construction/Demolition Waste Landfill” means a landfill accepting only waste building materials and rubble resulting from construction, remodeling, repair, and demolition operations on pavements, houses, commercial buildings and other structures. Such wastes include, but are not limited to, wood, bricks, metal, concrete, wall board, paper, cardboard, inert waste landfill material, and other nonputrescible wastes which have a low potential for groundwater contamination.
 - .2 “Inert Waste Landfill” means a landfill accepting only wastes that will not or are not likely to cause production of leachate of environmental concern. Such wastes are limited to earth and earth-like products, concrete, cured asphalt, rock, bricks, yard trimmings, stumps, limbs, and leaves. This definition excludes industrial and demolition waste not specifically listed above.
 - .3 “Solid Waste Landfill” means a landfill accepting any garbage or refuse; sludge from a wastewater treatment plant, water supply treatment plant, or air pollution control facility; and other discarded material including solid, liquid, semisolid, or contained gaseous material resulting from industrial, commercial, mining, and agricultural operations and from community activities, but does not include recovered materials; solid or dissolved materials in domestic sewage; solid or dissolved materials in irrigation return flows or industrial discharges that are point sources subject to permit under 33 U.S.C. Section 1342; or source, special nuclear, or by-product material as defined by the federal Atomic Energy Act of 1954, as amended (68 Stat. 923).
- 6.29.2 Hazardous waste landfills are prohibited, and hazardous waste (as defined by DNR) may not be disposed of in inert, construction/demolition, or solid waste landfills.

- 6.29.3 Any landfill must be located on a minimum of 250 acres. The landfill “cell” area (that is, holding actual waste) may not exceed 30% of the total acreage, with landfill operations areas (i.e., “cells” plus scales, offices, storage, other buildings, etc.) not exceeding 40%. No landfill cell may exceed 60 feet in height from the original grade, when fully filled, covered and vegetated. No more than 10 acres of the property can be active landfill cell at any one time.
- 6.29.4 All landfill cell areas and landfill operations areas must be surrounded by a chain-link fence at least six feet high, topped with anti-climbing devices. The boundary of the landfill property (either inside or outside the vegetated buffer) must be surrounded by a wooden privacy fence, at least eight feet high.
- 6.29.5 All landfills must be surrounded by a vegetated buffer at least one thousand (1,000) feet thick, located on the landfill property. The buffer must be sufficiently vegetated to be completely opaque and prevent viewing of any landfill cell at all times of the year. If the preexisting natural buffer is insufficient, the buffer shall be enhanced with appropriate trees dense enough to achieve the required opacity, on a vegetated berm at least six (6) feet high and fifty (50) feet wide at the top. The buffer must also comply with all requirements and specifications of Sec. 5.17 which do not conflict with these requirements.
- 6.29.6 No landfill cell may be located within two thousand (2,000) feet of residentially used property (so used at the time of application for the permit). For the purposes of this section, the phrase “residentially used property” shall mean the property on which the residence is located and not more than one acre of land, determined as if the residence was situated in the center of said tract. No landfill cell may be located within two-hundred fifty (250) feet of a wetland, groundwater recharge area, lake or other body of water, floodplain, state waters, stream or river.
- 6.29.7 All lights at a landfill shall be downward firing and shielded. Hours of operation of any landfill shall be no greater than 8:00 a.m. to 5:00 p.m. Monday to Friday, 8:00 a.m. to 4:00 p.m. Saturday. No operation allowed on Sunday.
- 6.29.8 A landfill shall only be permitted where all City or County roads used for access have been built to a standard sufficient to withstand the projected number of trips per day at maximum weight for the vehicles expected. If a landfill is proposed adjacent to City or County roads that are not sufficient, according to the City or County Engineer, to withstand the loads, or were not designed for such loads, the landfill owner may pay to bring such roads up to standard from the entrance(s) of the landfill to the nearest City, County or State road of sufficient strength; or the landfill shall be denied. Truck traffic shall be restricted to roads of sufficient strength.
- 6.29.9 An application for a conditional use permit for a landfill shall also submit the following information, in addition to other conditional use requirements:
- .1 A topographic site plan showing the proposed landfill, all surrounding uses in a ½ mile radius, the zoning on all adjacent parcels, the location of the landfill cells, all buffers and fences, highlighting land sloping 25% or more, and showing such other information as may be required by the Zoning Administrator.

- .2 Proximity to airports, sailports, private airstrips and similar uses within 10 miles shall be indicated. Proximity to national historic sites within five miles shall be indicated.
- .3 A report from a geologist of the soil conditions on the landfill, discussing the topography (especially any steep slopes), the substrata, and any geologic hazards or relevant conditions on the property, as well as giving an opinion as to the property's suitability for the type landfill proposed.
- .4 A site plan prepared by a qualified engineer depicting all floodplains, streams and rivers, state waters, watershed areas, wetlands, and groundwater recharge areas within ½ mile of the subject property (including on the subject property), as well as showing the location of the landfill and the landfill cells to those features, showing all buffers and setbacks. The plan shall also depict all water wells within ½ mile of the landfill cells.
- .5 A plan showing access, ingress and egress, including mechanisms to keep dust down and dirt off city roads. All access roads to landfill cells must be paved, and a truck cleaning station must be used at any exit. An estimate of daily truck traffic shall be provided, and entrances shall be located to minimize traffic hazards, with accel/decel lanes provided.
- .6 A traffic plan showing ingress and egress, number of trips per day, vehicle type, and maximum weight of vehicles expected.

6.29.10 In addition to the conditional use criteria in Article XVI, in considering a conditional use application for a landfill, the following additional criteria shall also apply:

- .1 Is the property and general area suitable for a landfill, considering geography, wetlands, state waters, streams and rivers, watersheds, groundwater recharge areas, adjacent uses and zoning, airports, national historic sites, jurisdictional boundaries and similar criteria?
- .2 Does the property and site plan meet all the buffer requirements relating to landfills?
- .3 Will the landfill have any negative impacts on the adjacent properties?
- .4 Are access, ingress and egress adequately provided for, considering the volume of traffic expected?
- .5 Is the use consistent with the comprehensive plan and the pattern of development in the area, and the applicable solid waste management plan?

Sec. 6.30 RECOVERED MATERIALS PROCESSING FACILITIES AND SOLID WASTE HANDLING FACILITIES

6.30.1 Recovered Materials Processing Facilities and Solid Waste Handling Facilities (referred to in this section as "Facility") are permitted as a conditional use in the I-2 Heavy Industrial District.

- 6.30.2 “Recovered Materials Processing Facility” means a facility engaged solely in the storage, processing, and resale or reuse of recovered materials. Such term shall not include a solid waste handling facility; provided, however, any solid waste generated by such facility shall be subject to all applicable laws and regulations relating to such solid waste. “Solid Waste Handling Facility” means any facility, the primary purpose of which is the storage, collection, transportation, treatment, utilization, processing, or disposal, or any combination thereof, of solid waste. “Recovered Materials” means those materials which have known use, reuse, or recycling potential; can be feasibly used, reused or recycled; and have been diverted or removed from the solid waste stream for sale, use, reuse, or recycling, whether or not requiring subsequent separation and processing. “Recycling” means any process by which materials which would otherwise become solid waste are collected, separated, or processed and reused or returned to use in the form of raw materials or products.
- 6.30.3 Any Facility must be located on a minimum of 250 acres. The active waste handling area (that is, an area for handling, storing, collecting, processing, treating, etc. waste) may not exceed 40% of that acreage.
- 6.30.4 The boundary of the Facility property (either inside or outside the vegetated buffer) must be surrounded by a wooden privacy fence, at least eight feet high. Any active waste handling area must be surrounded by a chain-link fence at least six feet high, topped with anti-climbing devices.
- 6.30.5 All Facilities must be surrounded by a vegetated buffer at least one thousand (1,000) feet thick, located on the property. The buffer must be sufficiently vegetated to be completely opaque and prevent viewing of any waste handling area at all times of the year. If the preexisting natural buffer is insufficient, the buffer shall be enhanced with appropriate trees dense enough to achieve the required opacity, on a vegetated berm at least six (6) feet high and fifty (50) feet wide at the top. The buffer must also comply with all requirements and specifications of Sec. 5.17 which do not conflict with these requirements.
- 6.30.6 No waste handling area (as measured from the chain-link fence boundary) may be located within two thousand (2,000) feet of residentially used property (so used at the time of application for the permit). For the purposes of this section, the phrase “residentially used property” is defined as in Sec. 6.29.6. Waste handling areas may not be located within two-hundred fifty (250) feet of a wetland, groundwater recharge area, lake or other body of water, floodplain, state waters, stream or river.
- 6.30.7 All lights at a Facility shall be downward firing and shielded. Hours of operation of any Facility shall be no greater than 8:00 a.m. to 5:00 p.m. Monday to Friday, 8:00 a.m. to 4:00 p.m. Saturday. No operation allowed on Sunday.
- 6.30.8 The requirements of Sec. 6.29.8 regarding roads shall apply.
- 6.30.9 An application for a conditional use permit for a Facility shall also submit the information required in Sec. 6.29.9, in addition to other conditional use requirements.

6.30.10 In addition to the conditional use criteria in Article XVI, in considering a conditional use application for a Facility, the criteria in Sec. 6.29.10 shall apply.

6.31 RAILROADS and RAILROAD RIGHTS-OF-WAY

Railroad tracks, lines and spur tracks, etc. are permissible in any zoning district. Development, land disturbance or grading shall not be permitted within twenty-five (25) feet of any railroad right-of-way, except as permitted by administrative variance granted by the Zoning Administrator. Railroad yards, switching yards, depots and similar uses are only permitted in the I-2 Heavy Industrial district.

6.32 SINGLE-FAMILY HOMES

Any single-family conventional or industrialized home erected or placed in the City after the date of the adoption of this Ordinance shall meet the following standards:

6.32.1 be roofed with asphalt or fiberglass shingles, wood shakes or shingles, standing seam (non-corrugated tin or steel), clay tiles, slate or similar materials as approved by the Zoning Administrator).

6.32.2 have a minimum roof overhang of 12 inches and a roof pitch of 3:12 or greater.

6.32.3 be placed on a foundation that meets the State Standard Codes adopted by the State of Georgia.

6.32.4 contain not less than 1,200 square feet of heated living space if it is being constructed on a lot of record existing as of June 5, 2007; if constructed on a lot newly created by subdivision of an existing lot or tract after that date, a single-family dwelling shall contain not less than 1,500 square feet of heated living space. A lot of record for these purposes means a lawful lot on an existing and approved final plat or other lawful lot in existence prior to the date stated above. See also Sec. 6.2 and 6.13.

Sec. 6.33 OPERATION OF BUSINESS FROM RESIDENTIAL DISTRICT PROHIBITED

Unless specifically permitted as a use under the applicable provision of Article VII, no business or commercial enterprise may operate in a residentially zoned district, including A-1 and any R district. Operation of a business or commercial enterprise shall include, but not be limited to, such activities as: having employees report to work at the property; storing commercial vehicles at the property; parking commercial vehicles at the property (other than as specifically permitted by Sec. 6.17); conducting any manufacturing or assembly at the property; retail or wholesale sales of any sort; providing any service, maintenance or repair at the property (other than permitted home occupations); and storage of any materials, supplies, products, or components at the property. Home offices and home occupations are permitted as shown in Sec. 6.7.

ARTICLE VII

USE REQUIREMENTS BY DISTRICTS; SPECIAL DISTRICTS

The following districts designate certain uses and conditional uses within each district. A use not specifically named within a district is NOT permitted. Any question of interpretation as to the appropriate district for a use shall be determined by the Zoning Administrator. The minimum lot sizes, setbacks and other area and yard requirements for each district are provided in Article VIII of this Ordinance.

Sec. 7.1 A-1 AGRICULTURE DISTRICT

The A-1 agriculture district is established primarily to encourage the retention and development of suitable areas for common farm practices and various compatible non-farm uses, preservation of open space, the conservation and management of soil, water, air, game and other natural resources and amenities, and to discourage the creation or continuation of conditions which could detract from the function, operation, and appearance of areas to provide food supplies and to prevent or minimize conflicts between common farm practices and non-farm uses. No new agricultural lot shall be created which is not at least five acres in area, and no lot of less than five acres may be split off from existing agriculturally zoned property. Any development or redevelopment on property zoned A-1 shall require that development plans be filed with the Zoning Administrator, and shall require compliance with the *Euharlee Subdivision Ordinance* and the *Euharlee Site Plan Review Ordinance*.

Within an A-1 agriculture district the following uses shall be permitted:

- 7.1.1 Within the A-1 agriculture district, no building, structure, land, or water shall be used except with one or more of the following uses:
- .1 On tracts of land at least five acres in size, all agricultural and horticulture uses shall be permitted (except as otherwise provided herein) provided that any meat processing facility, swine enclosure, cattle barn, commercial stable, or other major livestock enclosure shall be located not less than 100 feet from the adjoining property line and not less than 500 feet from the closest point to any dwelling structure located on adjoining property. Any livestock shall not roam free and shall be kept in a fenced area, with a fence sufficient to restrain the subject animals.
 - .2 On grandfathered tracts of land at least two acres in size, limited agricultural and horticultural uses shall be permitted. A chicken coup, private stable, or other minor livestock enclosure may be located at least 100 feet from any property line. Any livestock shall not roam free and shall be kept in a fenced area, with a fence sufficient to restrain the subject animals. Horticulture uses shall only take place in the rear yard and shall not be located closer to 10 feet from any adjacent property line.
 - .3 On grandfathered tracts of land under two acres in size, no livestock shall be permitted, unless the livestock use predates the date of adoption of this Ordinance.

- .4 With a permit from the Zoning Administrator, retail selling of products raised on the premises shall be permissible provided that space necessary for the parking of customers' vehicles shall be provided off the public rights-of-way. No additional signs beyond that allowed in the A-1 district shall be allowed. Any accessory structure constructed shall be in the nature of a farm stand, not heated or air-conditioned, and not to exceed 200 square feet. Such structure must be located at least 10 feet from the right-of-way. No commercial operations (large-scale selling or reselling) shall be permitted, nor shall resale of any product purchased from elsewhere be permitted. No employees who do not reside on the property may work in connection with retail selling.
- .5 Public buildings, structures, and land.
- .6 Home occupations, see Sec. 6.7.
- .7 Single-family dwellings (conventional, manufactured [single or multi-unit] and/or industrialized houses) and customary accessory uses, including docks and boathouses on not less than a five (5) acre tract of land; provided that, if there is located on adjoining property an existing chicken house, meat processing facility, swine enclosure, cattle barn, commercial stable, or other major livestock enclosure, then the dwelling shall be located not less than 100 feet from the adjoining property line and not less than 500 feet from the closest point to any of the above referred-to activities, as defined by the structure or livestock enclosure.
- .8 Guest houses (see Sec. 6.6) and customary accessory uses, including docks and boathouses, provided that if there is located on adjoining property an existing chicken house, meat processing facility, swine enclosure, cattle barn, commercial stable, or other major livestock enclosure, then the guesthouse shall be located not less than 100 feet from the closest point to any of the above referred-to activities, as defined by the structure or livestock enclosure.
- .9 Meat processing and temporary holding lot, but not chicken processing facility, see Sec. 7.13.
- .10 Churches, synagogues and similar places of worship.
- .11 Tenant dwellings, one- and two-family, where the land is used for bona fide agricultural purposes; provided further, that such dwellings house only those persons and their immediate family employed in carrying out such bona fide agricultural use.
- .12 In-home nursery schools (day care) and kindergarten with no more than six (6) children at any one time; provided that they shall have at least thirty-five (35) square feet of indoor space provided for each child and at least 100 square feet of play area per child in the outdoor play area which shall be enclosed by a fence having a minimum height of six (6) feet; provided further that prior to the submission of the application, the applicant shall

show proof of registration and licensing as required by the Georgia Department of Human Resources.

- .13 Family care homes, personal care homes, group homes for persons with a disability, all not exceeding six (6) residents, excluding resident staff, licensed by and in compliance with the applicable regulations of the Georgia Department of Human Resources; provided that:
 - (a) there is no external signage or other evidence of the use of the dwelling as other than a residential dwelling unit;
 - (b) the dwelling shall maintain its residential appearance;
 - (c) there is adequate off-street parking for resident, staff and visitors' parking such that, except for planned special events, there are no vehicles parked on the street or road right-of-way; and
 - (d) visitation hours are restricted so as to not create undue traffic congestion.
- .14 Public utility and service structures.
- .15 Timber production and forestry related uses.
- .16 Fish hatcheries.
- .17 Vineyards (except wineries are conditional uses).

7.1.2 Conditional uses: The following may be permitted as a conditional use provided the use is approved in accordance with the requirements of Article XVI and further provided that the requirements of this section are met.

- .1 Cemeteries, see Sec. 6.23.
- .2 Kennels, (whether private or commercial) provided the owner/operator holds a valid license pursuant to the Georgia Animal Protection Act (O.C.G.A. § 4-11-1 et seq.) and said property consists of a minimum of twenty (20) acres and shall remain in a predominantly natural state; provided further, the kennel area shall be located not less than 500 feet from any existing residential dwelling, not less than 200 feet from any residentially used property, and not less than 100 feet from any other adjoining property line. Kennels shall be built on a concrete slab, contain a drainage system that drains to an approved septic system or sewer line, and shall be totally enclosed and roofed. Chain-link animal runs are permitted as long as they are roofed. Kennels shall be well ventilated and provide heat and running water to the animals.
- .3 Telecommunications structures, subject to Article XII of this Ordinance.

- .4 Fishing camps, marinas, gun clubs and firing ranges when located on lands comprising twenty (20) acres or more and making use of the land in its predominantly natural state.
- .5 Commercial stables, provided the owner/operator holds a valid license pursuant to the Georgia Animal Protection Act (O.C.G.A. § 4-11-1 et seq.) and said property consists of a minimum of five (5) acres; provided further, the stable shall be located not less than 500 feet from any adjoining property line; provided further, that the land must remain in a predominantly natural state.
- .6 Recreational vehicle/travel trailer parks and campgrounds; provided the park or campground shall consist of a minimum of twenty (20) acres and developed in accordance with the provisions of this Ordinance pertaining to campgrounds; provided further, the nearest parking space or campsite shall be located not less than 500 feet from any adjoining property line.
- .7 Privately sponsored arts and crafts fairs, or religious gatherings, limited to not more than 14 days in duration per year, provided sufficient space is available to provide a buffer of 500 feet from adjoining property owners and off-street parking and said fair is not open to the public after sundown.
- .8 Privately owned historic site, regularly open for public visitation, provided the same consists of ten (10) acres or more and is a component of the National Register of Historic Places and the Georgia Register of Historic Places; provided further, that any fees charged or revenue generated in connection with the site are used solely to offset the costs of restoring and maintaining the buildings and grounds of said site; provided further, that the only ancillary facilities permitted are a museum, restaurant and gift shop (which may contain a snack bar); provided further, that facilities for parking must be self-contained on the premises and shielded from public view. No activity which would cause sound to travel beyond the limits of the property is allowed. No activity not directly related to the historic nature of the property shall be permitted. Overnight parking is prohibited.
- .9 Bed and breakfast inns, provided there is sufficient space to provide adequate parking and the rental is limited to temporary occupancy only; provided further, that the nearest parking space shall be located not less than 500 feet from any adjoining property line.
- .10 Country Clubs and Golf Courses; Golf Course Communities when located on lands comprising one hundred (100) acres or more, provided that the golf course is constructed first or simultaneously and said community is constructed, at a minimum, in accordance with the provisions of this Ordinance pertaining to residential developments. Residential development in a golf course community or country club community shall comply with the requirements of the R-1 district as to lot size, width, setback and yard requirements. A 50-foot buffer, meeting the standards of Sec. 5.17.5, is required for all external boundaries of the property to screen all neighbors.

- .11 Accessory uses for churches and places of worship, such as schools, day cares, hospices, and similar facilities.
- .12 Airports, on at least 200 acres of land, and not within 2,000 feet of any residentially used property.
- .13 Sailport, ultralight landing strip, on at least 50 acres of land, not within 1,000 feet of any residentially used property.
- .14 Family plots (not in excess of 12 burial sites, on lots of at least five acres), see Sec. 6.23.
- .15 Sawmills; provided that any sawmill must be located at least 500 feet from an adjoining property line; provided further, that if said sawmill is located on property which adjoins property on which a dwelling is located, said sawmill must be located no less than 1,000 feet from the closest point to said dwelling.
- .16 Wineries (locations for the production of wine) that are located on the same property as the vineyard, and are suitable for the area. Large wine production or processing facilities that are of a commercial or industrial nature shall be located in I-2 districts.
- .17 Explosive storage, when accessory to a permitted use (except not permitted in conjunction with surface mining, see below).
- .18 Only on former, abandoned mine property, surface mining is permitted as a conditional use for rock and mineral removal, provided no explosive blasting nor digging is permitted. Strip mining shall not be permitted, nor shall any mining requiring heavy excavators or massive land disturbance.
- .19 Bicycling, mountain bike course, with minimum of five acres.
- .20 Motorcross motorcycle track, dirt bike track, race track, auto racing, drag strip, other powered-vehicle race track. 50-acre minimum tract of land required, with minimum five hundred (500) foot vegetative buffer (complying with Secs. 5.17.5 and 5.17.6). No portion of the race track or any garage, staging or pit area, nor any parking area, may be located within one thousand five hundred (1,500) feet of residentially used property (so used at the time of application for the permit). For the purposes of this section, the phrase "residentially used property" shall mean the property on which the residence is located and not more than one acre of land, determined as if the residence was situated in the center of said tract.
- .21 Chicken houses, on at least 10 acres, and must be located not less than 100 feet from the adjoining property line and not less than 500 feet from the closest point to any dwelling structure located on adjoining property.

7.1.3 No building or structure, except silos, granaries, windmills, barns, commercial antennas, and other structures concurrent to the operation of an agricultural enterprise, may exceed fifty (50) feet in height.

- 7.1.4 Accessory buildings and structures which are not intended for use or used for the housing of livestock or poultry and are ancillary to the residential use shall maintain the same front and side yards as the main structure; however, they will not project beyond the established building line. Rear yard setbacks shall be a minimum of 10 feet.
- 7.1.5 Major livestock enclosures, cattle barns, commercial stables, swine enclosures, chicken houses, and other buildings or structures which are intended for use or used for the housing or shelter of livestock, and silos, granaries, barns, and similar structures which are concurrent to the operation of an agricultural enterprise, shall observe a minimum setback of 100 feet from any property line and be spaced a minimum of 500 feet from any residence on an adjacent lot or parcel. Minor livestock enclosures, private stables and chicken coops shall observe a minimum setback of 100 feet from any property line and be spaced a minimum of 200 feet from any residence on an adjacent lot or parcel.
- 7.1.6 Off-street parking/loading shall be provided in accordance with Article VI.

Sec. 7.2 RE-1 RURAL ESTATE DISTRICT (Conventional or Industrialized Single-Family Housing)

Any development or redevelopment on property zoned RE-1 shall require that development plans be filed with the Zoning Administrator, and shall require compliance with the *Euharlee Subdivision Ordinance* and the *Euharlee Site Plan Review Ordinance*.

Within the RE-1 District, the following uses shall be permitted:

- 7.2.1 Conventional or industrialized single-family dwellings on a minimum lot size of three acres. Manufactured houses shall not be permitted.
- 7.2.2 Churches, synagogues and similar places of worship.
- 7.2.3 Municipal, county, state, federal and other public uses, including parks and playgrounds.
- 7.2.4 In-home nursery schools (day care) and kindergartens with no more than six (6) children at any one time; provided that they shall have at least thirty-five (35) square feet of indoor space provided for each child and at least 100 square feet of play area per child in the outdoor play area which shall be enclosed by a fence having a minimum height of six (6) feet; provided further, that prior to the submission of the application, the applicant shall show proof of registration and licensing as required by the Georgia Department of Human Resources.
- 7.2.5 On lots three acres or larger, private stables and horses are permitted so long as the number of horses does not exceed one per whole acre of property; provided further, that any barn or structure used to house said horses is located at least 100 feet from the adjoining property line and at least 200 feet from any dwelling located on adjoining property. No other livestock is permitted.
- 7.2.6 Home occupations, see Sec. 6.7.
- 7.2.7 Guest Houses, see Sec. 6.6.

7.2.8 Group Homes for Persons with a Disability, with up to six residents, not including resident staff, see Sec. 6.26.

The following uses may be permitted as conditional uses:

7.2.9 Accessory uses for churches and places of worship, such as schools, day care, hospices, and similar facilities.

7.2.10 Telecommunications structures, subject to Article XII of this Ordinance.

Sec. 7.3 RE-2 RURAL ESTATE DISTRICT (Single-Family Manufactured Housing)

Any development or redevelopment on property zoned RE-2 shall require that development plans be filed with the Zoning Administrator, and shall require compliance with the *Euharlee Subdivision Ordinance* and the *Euharlee Site Plan Review Ordinance*.

Within the RE-2 District, the following uses shall be permitted:

7.3.1 Single-family manufactured houses on a minimum lot size of three acres.

7.3.2 Neither conventional houses nor industrialized houses shall be permitted.

7.3.3 Churches, synagogues and similar places of worship and their customarily related uses.

7.3.4 Municipal, county, state, federal and other public uses, including parks and playgrounds.

7.3.5 Accessory buildings are permitted only in a rear yard and shall not be less than ten (10) feet from the side and rear property lines.

7.3.6 In-home nursery schools (day care) and kindergartens with no more than six (6) children at any one time; provided that they shall have at least thirty-five (35) square feet of indoor space provided for each child and at least 100 square feet of play area per child in the outdoor play area which shall be enclosed by a fence having a minimum height of six (6) feet; provided further, that prior to the submission of the application, the applicant shall show proof of registration and licensing as required by the Georgia Department of Human Resources. Any swimming pool shall be enclosed with a solid or chain-link fence not less than four (4) feet in height except where the top of the walls of an above ground pool is at least forty-eight (48) inches above the grade, and the ladder or steps can be readily removed to prevent access.

7.3.7 On lots three acres or larger, private stables and horses are permitted so long as the number of horses does not exceed one per whole acre of property; provided further, that any barn or structure used to house said horses is located at least 100 feet from the adjoining property line and at least 200 feet from any dwelling located on adjoining property.

7.3.8 Home occupations.

7.3.9 Guest Houses.

Sec. 7.4 R-1 RESIDENTIAL DISTRICT (Conventional or Industrialized Single-Family Housing)

Any development or redevelopment on property zoned R-1 shall require that development plans be filed with the Zoning Administrator, and shall require compliance with the *Euharlee Subdivision Ordinance* and the *Euharlee Site Plan Review Ordinance*.

Within the R-1 residential district, the following uses shall be permitted:

- 7.4.1 Conventional or industrialized single-family dwellings, on minimum lot sizes of 15,000 square feet if sewer is available to said tract; if sewer is not available, the minimum lot size shall be 26,000 square feet or health department requirements, whichever is greater. Manufactured houses shall not be permitted.
- 7.4.2 Churches, synagogues and similar places of worship.
- 7.4.3 Municipal, county, state, federal and other public uses, including parks and playgrounds.
- 7.4.4 In-home nursery schools (day care) and kindergartens with no more than 6 children at any one time; provided that they shall have at least thirty-five (35) square feet of indoor space provided for each child and at least 100 square feet of play area per child in the outdoor play area which shall be enclosed by a fence having a minimum height of six (6) feet; provided further, that prior to the application, the applicant shall show proof of registration and licensing as required by the Georgia Department of Human Resources;
- 7.4.5 Home occupations, see Sec. 6.7.
- 7.4.6 Group Homes for Persons with a Disability, with up to six residents, not including resident staff, see Sec. 6.26.
- 7.4.7 Guest houses, see Sec. 6.6.

The following uses may be permitted as conditional uses:

- 7.4.8 Accessory uses for churches and places of worship, such as schools, day care, hospices, and similar facilities.
- 7.4.9 Telecommunications structures, subject to Article XII of this Ordinance.

Sec. 7.5 R-2 RESIDENTIAL DISTRICT (Conventional or Industrialized Duplex, Triplex, or Quadraplex Housing)

Any development or redevelopment on property zoned R-2 shall require that development plans be filed with the Zoning Administrator, and shall require compliance with the *Euharlee Subdivision Ordinance* and the *Euharlee Site Plan Review Ordinance*.

Within the R-2 residential district, the following uses shall be permitted:

- 7.5.1 Conventional or industrialized two-family and multi-family dwelling units (duplexes, triplexes, and quadraplexes). Separate bath/toilet facilities and kitchen/dining areas shall be provided for each dwelling unit. Buildings are limited to use of twenty-five (25) percent of site area.
- 7.5.2 Minimum lot sizes of 15,000 square feet shall be required if sewer is available to said tract; if sewer is not available, the minimum lot size shall be 26,000 square feet or the health department requirements, whichever is greater.
- 7.5.3 Two (2) off-street parking spaces shall be provided on the site for each dwelling unit.
- 7.5.4 Said dwellings may be either conventionally built structures or industrialized housing. Manufactured houses shall not be permitted.
- 7.5.5 Churches, synagogues and similar places of worship.
- 7.5.6 Municipal, county, state, federal, and other public uses, including parks and playgrounds.
- 7.5.7 Home occupations, see Sec. 6.7.
- 7.5.8 Group Homes for Persons with a Disability, with up to six residents, not including resident staff, see Sec. 6.26.

The following uses may be permitted as conditional uses:

- 7.5.9 Accessory uses for churches and places of worship, such as schools, day care, hospices, and similar facilities.
- 7.5.10 Telecommunications structures, subject to Article XII of this Ordinance.

Sec. 7.6 R-3 RESIDENTIAL DISTRICT (Multi-Family Housing)

Any development or redevelopment on property zoned R-3 shall require that development plans be filed with the Zoning Administrator, and shall require compliance with the *Euharlee Subdivision Ordinance* and the *Euharlee Site Plan Review Ordinance*.

Within an R-3 residential district, the following uses shall be permitted:

- 7.6.1 Apartment buildings and fee simple townhouses which comply with the following:
 - .1 Total ground floor area of the building(s) is limited to thirty (30) percent of site area. Two off-street parking spaces shall be provided on site for each dwelling unit, except in the case of low income public housing which shall provide one and one-half parking spaces per dwelling unit. Each dwelling unit shall have separate bath/toilet and kitchen/dining areas;

- .2 Each dwelling unit shall contain a minimum of:
 - 360 square feet - efficiency units
 - 500 square feet - one bedroom units
 - 750 square feet - two bedroom units
 - 1,000 square feet - three bedroom units
 - 1,200 square feet - four bedroom units;
- .3 Buildings shall be spaced at least twenty (20) feet apart. The front of one building shall not face the rear of another building on the site;
- .4 No apartments or fee simple townhouses shall be constructed on a lot or tract of land unless connected to public sewer;
- .5 A minimum of 10 percent of the total usable area shall be set aside and designated for recreational purposes;
- .6 At least one refuse collection station shall be provided for each thirty (30) families or fraction thereof which shall be located not more than fifty (50) feet from any dwelling unit;
- .7 Each development shall be landscaped with trees and fast growing screen planting (such as to be six feet high within one year of planting) so as to compliment the development and surrounding areas; and
- .8 Said multi-family dwellings may be either conventional or industrialized housing structures.
- .9 In a townhouse development only, a portion of the development may contain single-family detached dwellings meeting the following standards:
 - (a) No more than 50% of the units in the entire development may be detached, and total ground floor area of all single-family dwellings and townhouses together is limited to thirty (30) percent of site area;
 - (b) Minimum detached house size is 1,000 square feet and all detached homes shall be attached to public sewer;
 - (c) Setbacks shall be as follows for the detached homes: 5 feet side, 25 feet rear, 20 feet front (from right-of-way of street). Detached homes must be set back at least 20 feet from any adjacent townhome structure.
 - (d) Two off-street parking spaces shall be provided on site for each dwelling unit.

7.6.2 A developer may construct a fee simple townhouse development in which the streets contained therein are not dedicated to the city only upon compliance with all of the following:

- .1 All provisions of the zoning ordinance, sub-division regulations and other applicable ordinances shall apply to the development of said development except any requirement of dedication of streets to the City.
- .2 Reserved.
- .3 The plat of the development shall reflect and reserve all necessary utility easements and private rights-of-way to service the development;
- .4 All plats shall be labeled as a "Private Development" and shall contain on the face thereof the following language in prominent bold capital letters: **"THE STREETS, DRAINAGE AND STORMWATER MANAGEMENT FACILITIES IN THIS DEVELOPMENT ARE PRIVATE AND ARE NEITHER MAINTAINED BY EUHARLEE NOR CONSIDERED PART OF THE ROAD SYSTEM OF EUHARLEE OR BARTOW COUNTY. THE RESPONSIBILITY FOR THE UPKEEP AND MAINTENANCE OF THE STREETS, DRAINAGE, AND STORMWATER MANAGEMENT FACILITIES SHOWN HEREON ARE THE RESPONSIBILITY OF THE INDIVIDUAL HOMEOWNERS THROUGH THE DEVELOPMENT'S INCORPORATED HOMEOWNER'S ASSOCIATION"**;
- .5 All deeds of conveyance for individual townhouses shall contain on the face thereof the following language in prominent bold capital letters: **"THE GRANTEE HEREIN ACKNOWLEDGES THAT ANY AND ALL MEANS OF INGRESS AND EGRESS TO THE PROPERTY CONVEYED HEREIN ALONG THE STREETS OF THE DEVELOPMENT AS OUTLINED ON THE PLAT OF SAID DEVELOPMENT ARE PRIVATE STREETS AND ARE NEITHER MAINTAINED BY EUHARLEE NOR CONSIDERED PART OF THE ROAD SYSTEM OF EUHARLEE OR BARTOW COUNTY. THE GRANTEE FURTHER ACKNOWLEDGES THAT THE DRAINAGE AND STORMWATER MANAGEMENT FACILITIES ARE PRIVATE, AND ARE NEITHER MAINTAINED BY NOR CONSIDERED PART OF THE EUHARLEE OR BARTOW COUNTY SEWER/STORMWATER SYSTEM. THE RESPONSIBILITY FOR THE UPKEEP AND MAINTENANCE OF THE STREETS, DRAINAGE AND STORMWATER MANAGEMENT FACILITIES SHOWN THEREON ARE THE RESPONSIBILITY OF THE INDIVIDUAL HOMEOWNERS THROUGH THE DEVELOPMENT'S INCORPORATED HOMEOWNER'S ASSOCIATION"**;
- .6 Provide proof to the Zoning Administrator from the Georgia Secretary of State of the incorporation of the development's homeowners' association and proof that said association holds title to the right-of-way of the streets on behalf of the purchasers and requires all purchasers of townhouses in said development to be members of said homeowners' association;
- .7 Place at the entrance to said development a sign, approved by the Zoning Administrator, indicating that the streets in the development are private streets;
- .8 If a gate or other controlled access is installed at the entrance to the development, a place which provides emergency access to the development by emergency agencies must first be approved by the emergency agencies of

Euharlee. Access must also be provided to anyone providing utilities to said development;

.9 All agreements, restrictive covenants and other documentation related to the development shall be furnished and approved by the Zoning Administrator, prior to commencement of development; and

7.6.3 Rooming and boarding homes.

7.6.4 Churches, synagogues and similar places of worship and their customarily related accessory uses, including schools, day care, hospices and similar.

7.6.5 Municipal, county, state, federal and other public uses, including parks and playgrounds.

7.6.6 Group Homes for Persons with a Disability, see Sec. 6.26.

The following uses may be permitted as conditional uses:

7.6.7 Telecommunications structures, subject to Article XII of this Ordinance.

Sec. 7.7 Reserved

Sec. 7.8 R-6 RESIDENTIAL DISTRICT (Manufactured House Parks)

The R-6 zoning district is a historical zoning district which was intended to allow for manufactured house parks originally. It is now the intent of the city that no new manufactured house parks be established. The provisions of this section shall govern existing manufactured house parks. Only uses permitted in the R-1 districts shall be permitted as new uses on properties zoned R-6.

7.8.1 No manufactured house park shall be constructed or maintained on a lot or a total area of less than ten (10) acres, having an average width of not less than 400 feet. This ten (10) acre minimum must be adhered to throughout the existence of the manufactured house park.

7.8.2 Each manufactured house space shall be at least fifty (50) feet in width and shall provide a minimum of 4,000 square feet. In cul-de-sac or curved street design, the width of the manufactured house space shall be at least fifty (50) feet at the location of the center of the manufactured house unit. Notwithstanding the foregoing, the maximum density of units on any one acre in any park shall not exceed eight (8) units. Manufactured house parks are not allowed except on public sewer. No individual or group septic systems are permitted for manufactured house parks.

7.8.3 A manufactured house shall be allowed in any park in this City so long as it is constructed at least in conformity with the requirements of the DCA, the Federal Manufactured Home Construction and Safety Standards Act (42 USC 5401 et seq.) and the regulations of the U. S. Department of Housing and Urban Development (HUD), and conforms to all other applicable regulations in this Ordinance.

- 7.8.4 A minimum of 10 percent of the total usable area of any park shall be set aside and designated for recreational purposes.
- 7.8.5 Convenience establishments of a commercial nature, including stores, pick-up laundry and dry cleaning agencies, and beauty shops and barber shops may be permitted in manufactured housing parks provided that such establishments and the parking areas primarily related to their operations are adequate and approved by the Zoning Administrator, and:
- .1 occupy not more than 10 percent of the areas of the park;
 - .2 be subordinated to the residential use and character of the park; and
 - .3 be located, designed and intended to serve frequent trade or service needs of persons residing in the park only.
- 7.8.6 The manufactured house park site plan including recreational plans and all proposed commercial uses shall be submitted to the Euharlee Zoning Administrator for approval.
- 7.8.7 Each manufactured house site shall be provided with drives connecting with the interior drive and sufficient to provide two off-street parking spaces. In addition, driveways at least 18 feet wide shall be provided to service buildings. Streets are required to be constructed according to minimum requirements provided in this Ordinance (except curbing and dedication of streets).
- 7.8.8 One refuse collection station shall be provided for each twenty (20) families or fraction thereof. It shall be conveniently located for collection not more than 200 feet from any manufactured house served. If individual refuse containers are used on manufactured house sites, stands must be provided to hold the cans and screen them from public view.
- 7.8.9 Each manufactured house park shall be landscaped with trees and fast growing screen planting (such as to be at least six feet tall within one year) so as to compliment the development and surrounding areas.
- 7.8.10 No manufactured house shall be located within ten (10) feet of its individual lot line or forty (40) feet from any public road right-of-way.
- 7.8.11 A buffer strip at least twenty-five (25) feet wide shall be located adjacent to each exterior property line of the manufactured house park and shall not be included within any individual manufactured house lot. This buffer strip shall be increased to a width of fifty (50) feet when located adjacent to single-family residences. This strip shall be densely planted with fast growing evergreen shrubs or trees (such as are at least six feet tall within one year).
- 7.8.12 Manufactured house parks shall comply with all regulations of this Ordinance relating to development and improvements, except as otherwise provided. Each individual manufactured house must comply with the provisions of Sec. 6.3, except as otherwise provided in this Section.

7.8.13 Permitted uses in manufactured house parks:

- .1 Individual manufactured houses, provided they are located in a manufactured house park which meets the requirements set forth in this Ordinance.
- .2 Home occupations, see Sec. 6.7.

The following uses may be permitted as conditional uses:

7.8.14 Telecommunications structures, subject to Article XII of this Ordinance.

Sec. 7.9 O/I OFFICE AND INSTITUTIONAL DISTRICT

The minimum square footage for all uses within the O/I district shall be 1,000 square feet of heated space. Any development or redevelopment on property zoned O/I shall require that development plans be filed with the Zoning Administrator, and shall require compliance with the *Euharlee Subdivision Ordinance* and the *Euharlee Site Plan Review Ordinance*.

Within the O/I District, the following uses shall be permitted:

- 7.9.1 Offices.
- 7.9.2 Cultural facilities, including art galleries, museums, legitimate theaters, libraries, and other uses similar in character to those listed.
- 7.9.3 Offices of health service practitioner, including physicians, surgeons, dentists, and dental surgeons, osteopathic physicians, chiropractors, and other licensed practitioners similar to those listed.
- 7.9.4 Health service clinics, including a pharmacy as an accessory use.
- 7.9.5 General office uses, including sales representatives, legal services, engineering, and architectural, accounting, auditing, bookkeeping, finance, real estate, insurance, and others similar in character to those listed.
- 7.9.6 Churches, synagogues and similar places of worship and their customarily related uses.

The following uses may be permitted as conditional uses:

7.9.7 Telecommunications structures, subject to Article XII of this Ordinance.

Sec. 7.10 C-N NEIGHBORHOOD BUSINESS DISTRICT

All commercial and retail operations in the C-N district must occupy a structure of a minimum of 800 square feet. The total ground floor area of all structures on the lot shall not exceed 50 percent of the lot. Any development or redevelopment on property zoned C-N shall require that development plans be filed with the Zoning Administrator, and shall require compliance with the *Euharlee Subdivision Ordinance* and the *Euharlee Site Plan Review Ordinance*.

Within the C-N neighborhood business district, the following uses shall be permitted:

- 7.10.1 Strip shopping centers on lots not exceeding one acre.
- 7.10.2 Convenience stores, including the incidental sale of motor fuels on lots not exceeding one acre.
- 7.10.3 Drive-through branch banks.
- 7.10.4 Public buildings, structures and lands.
- 7.10.5 Churches, synagogues and similar places of worship and their customarily related uses.
- 7.10.6 Within the C-N neighborhood business district, every use shall be so constructed, maintained, and operated as not to be injurious or offensive to occupants of adjacent premises by reason of the emission or creation of noise, smoke, vibration, dust, electrical disturbance, toxic or noxious waste material, odor, fire, explosive hazard, glare, or traffic generation.
- 7.10.7 Nursery schools, adult and child day care centers and kindergartens; provided that they shall have at least thirty-five (35) square feet of indoor space for each child or supervised adult and at least 100 square feet of play area per child in the outdoor play area which shall be enclosed by a fence having a minimum height of six (6) feet; provided further that, prior to the application, the applicant shall show proof of registration and licensing as required by the Georgia Department of Human Resources.
- 7.10.8 Restaurants on lots not exceeding one acre.
- 7.10.9 Self-serve car wash facilities on lots not exceeding one acre.

The following uses may be permitted as conditional uses:

- 7.10.10 Telecommunications structures, subject to Article XII of this Ordinance.

Sec. 7.11 C-1 GENERAL BUSINESS DISTRICT

All commercial and retail operations in the C-1 district must occupy a structure of a minimum of 800 square feet. The total ground floor area of all structures on the lot shall not exceed 50 percent of the lot. Any development or redevelopment on property zoned C-1 shall require that development plans be filed with the Zoning Administrator, and shall require compliance with the *Euharlee Subdivision Ordinance* and the *Euharlee Site Plan Review Ordinance*.

Within the C-1 general business district, the following uses shall be permitted:

- 7.11.1 Retail businesses or service establishments including restaurants.
- 7.11.2 Hotels, offices, banks, and theaters.

- 7.11.3 Automobile parking lots and garages and impound lots of one acre or less provided said impound lot must be surrounded by a fence meeting the requirements of Section 5.17.7.
- 7.11.4 Bus terminals.
- 7.11.5 Wholesale Establishments, Distribution Centers, and Office/Warehouses (excluding processing, fabrication, or manufacturing).
- 7.11.6 Newspaper offices and printing establishments.
- 7.11.7 Automobile service stations, provided that all structures and buildings, except principal use signs, and including storage tanks, shall be placed not less than twenty-five (25) feet from any side or rear property line except where such side or rear property line abuts a street, in which case the setback shall be that required for such streets measured from the right-of-way. All buildings or structures including gas pumps and storage tanks, except principal use signs, shall comply with the setback requirements of any abutting street. On a corner lot, the means of ingress and egress shall be provided not less than fifteen (15) feet from the intersection of street right-of-way lines. Ingress and egress shall be arranged and designed so as to minimize the interference with the flow of traffic, either vehicular or pedestrian. No vehicles shall remain unattended on the premises for more than 72 hours except vehicles owned by the business, those vehicles on which active repair by the business is underway, and those held for lease or rental.
- 7.11.8 Public buildings, structures and land.
- 7.11.9 Public utility and service structures.
- 7.11.10 Churches, synagogues and similar places of worship and their customarily related uses.
- 7.11.11 Automobile sales and service.
- 7.11.12 Hospitals, group homes for persons with a disability, clinics, nursing homes, assisted living facilities, adult day care, child day care for more than 19 children, personal care homes, retirement homes, shelter care facilities, rehabilitation and treatment facilities, residential treatment centers, hospices, family care homes, and related facilities.
- 7.11.13 Funeral parlors and mortuaries provided any such use shall be located on a major street.
- 7.11.14 Hotels, motels, extended stay hotels and motels.
- 7.11.15 Veterinary clinics and/or animal hospitals, provided no part of any building, structure, pen, or enclosure is located closer than fifty (50) feet to any property line.
- 7.11.16 Mini warehouses.

- 7.11.17 Nursery schools, day care centers, and kindergartens; provided that they shall have at least thirty-five (35) square feet of indoor space provided for each child and at least 100 square feet of play area per child in the outdoor play area which shall be enclosed by a fence having a minimum height of six (6) feet and provided further that, prior to the application, the applicant shall show proof of registration and licensing as required by the Georgia Department of Human Resources.
- 7.11.18 Private schools offering general education courses for more than one grade.
- 7.11.19 Self-service or automated car wash facility.
- 7.11.20 Tennis/racquetball courts/clubs.
- 7.11.21 Welding shop, metal forging shop, both under 10,000 square feet.
- 7.11.22 Auto auctions.
- 7.11.23 Bicycling, mountain bike course, hippodrome, with a minimum of two acres.
- 7.11.24 Machine shop.
- 7.11.25 Storage yards, including building materials, timber and lumber; storage accessory to other lawful use (unless otherwise specifically listed elsewhere in this Ordinance).

The following uses may be permitted as conditional uses:

- 7.11.26 Telecommunications structures, subject to Article XII of this Ordinance.
- 7.11.27 Propane storage tanks conditioned upon approval in accordance with the requirements of Article XVI of this Ordinance.

Sec. 7.12 I-1 GENERAL INDUSTRIAL DISTRICT

The minimum square footage for all uses within the I-1 district shall be 1,000 square feet of heated space. Any development or redevelopment on property zoned I-1 shall require that development plans be filed with the Zoning Administrator, and shall require compliance with the *Euharlee Subdivision Ordinance* and the *Euharlee Site Plan Review Ordinance*.

Within an I-1 industrial district, the following uses shall be permitted:

- 7.12.1 General industry, plants and facilities.
- 7.12.2 Truck terminals.
- 7.12.3 Wholesaling and warehousing.
- 7.12.4 Any retail or service establishment dependent upon or closely related to industry.

- 7.12.5 Storage yards, including building materials yards, lumber yards, and saw mills, but not junk yards or automobile junk yards, provided any such use is screened from view by a fence as set out in Section 5.17.7 of this Ordinance.
- 7.12.6 Automobile service stations, provided that all structures and buildings, except principal use signs, and including storage tanks, shall be placed not less than twenty-five (25) feet from any side or rear property line except where such side or rear property lines abut a street, in which case, the setback shall be that required for such streets measured from the right-of-way. All buildings or structures including gas pumps and storage tanks, except principal use signs, shall comply with the setback requirements of any abutting street. If on a corner lot, the means of ingress and egress shall be provided not less than fifteen (15) feet from the intersection of street lines. Ingress and egress shall be arranged and designed so as to minimize the interference with the flow of traffic, either vehicular or pedestrian.
- 7.12.7 Propane storage tanks conditioned upon approval in accordance with the requirements of Article XVI of this Ordinance.
- 7.12.8 Public utility and service.
- 7.12.9 Theme or amusement park.
- 7.12.10 Assembly plant.
- 7.12.11 Feed processing plant.
- 7.12.12 Mini-warehouses.
- 7.12.13 Welding shop, metal forging shop.
- 7.12.14 Tire, rubber processing plant (not recycling facilities, see Sec. 6.30).
- 7.12.15 Manufactured or portable building manufacturers.
- 7.12.16 Carpet manufacturing plants.
- 7.12.17 Medical, dental laboratory or research facility (except any facility with Class IV biohazard containment facility or experimenting with chemical warfare or nerve agents shall require a conditional use permit).
- 7.12.18 Soft drink bottler/distribution; beer and liquor distribution, distillery.

The following uses may be permitted as conditional uses:

- 7.12.19 Telecommunications structures, subject to Article XII of this Ordinance.

Sec. 7.13 I-2 HEAVY INDUSTRIAL DISTRICT

The minimum square footage for all uses within the I-2 district shall be 1,000 square feet of heated space. Any development or redevelopment on a property zoned I-2 shall require that

development plans be filed with the Zoning Administrator, and shall require compliance with the *Euharlee Subdivision Ordinance* and the *Euharlee Site Plan Review Ordinance*.

Within an I-2 heavy industrial district, the following uses shall be permitted:

- 7.13.1 Any use permitted in an I-1 industrial district.
- 7.13.2 Heavy industry, plants and facilities.
- 7.13.3 Public utility and service structures.
- 7.13.4 Commercial mulching operations, and similar uses.
- 7.13.5 Meat processing facility; chicken processing plants.
- 7.13.6 Chemical plants.
- 7.13.7 Concrete, brick, or masonry plants.
- 7.13.8 Paper or pulp mills.
- 7.13.9 Scrap tire processing plants.
- 7.13.10 Assembly plant, and heavy assembly plant.
- 7.13.11 General industry, plants and facilities.
- 7.13.12 Fertilizer plant.
- 7.13.13 Asphalt plant.
- 7.13.14 Bulk storage tanks (flammable or non-flammable); all tanks must be surrounded by spill-control dikes and other measures; flammable tanks must be kept at least 1,000 feet from property line. Bulk storage exceeds 50,000 gallons.
- 7.13.15 Petroleum refinery/processing plant.
- 7.13.16 Steel plant, metal smelting, minimill, electric arc furnace and integrated steel mills.
- 7.13.17 Petroleum, natural gas, or liquid propane (or similar flammable substance) substation or transfer station.
- 7.13.18 Tannery, leather processing facility.
- 7.13.19 Railroad yards, switching yards, depots.
- 7.13.20 Adult entertainment business in accordance with Euharlee Adult Entertainment Ordinance.

The following uses may be permitted as conditional uses:

- 7.13.21 Telecommunications structures, subject to Article XII of this Ordinance.
- 7.13.22 Landfills. See Sec. 6.29 for further regulations.
- 7.13.23 Recovered Material Processing Facilities and Solid Waste Handling Facilities. See Sec. 6.30 for further regulations.
- 7.13.24 Explosives plant and explosives storage.
- 7.13.25 Composting facility (see Sec. 6.30).
- 7.13.26 Junk yards, including automobile junk yards, and scrap yards, salvage yards or other salvage operations, conditioned upon the same being compatible with the existing heavy industry and not being distracting from the surrounding area and further conditioned upon such use being completely screened from view by a solid opaque wall, or existing natural screen at least eight (8) feet in height. Such junkyard shall comply with all setback requirements for this district and shall contain at least 20 acres and not adjoin a residential area. The buffer between said use and another use permitted in this district shall be at least 1,000 feet around the property line.

Sec. 7.14 M-1 MINING DISTRICT

The permitting and regulation of the mining industry falls upon one or more of the following federal or state authorities: a) federal - U. S. Department of Labor, Mine Safety and Health Administration, Environmental Protection Agency; b) state - Georgia Department of Natural Resources, Environmental Protection Division. Any development or redevelopment on a property zoned M-1 shall require that development plans be filed with the Zoning Administrator, and shall require compliance with the *Euharlee Subdivision Ordinance* and the *Euharlee Site Plan Review Ordinance*.

Within the M-1 mining district, the following uses shall be permitted:

- 7.14.1 Mining and quarrying; extraction of natural resources from the earth.
- 7.14.2 Activities directly related to, and in the support of, the excavation of minerals or rock materials which are beneficial and sold for profit. Such activities may be surface, underground, subaqueous, or solution in nature.
- 7.14.3 Public utility and service structures.
- 7.14.4 Concrete plant, masonry plant, brick plant.
- 7.14.5 Fertilizer plant.

The following uses may be permitted as conditional uses:

- 7.14.6 Telecommunications structures, subject to Article XII of this Ordinance.
- 7.14.7 Explosives plant and explosives storage, when accessory to mining operations.

Additional regulations for the M-1 District:

7.14.8 Buffers in the M-1 District:

- .1 Mining involving blasting or use of explosives (e.g., granite and limestone quarrying) shall require a 1,000-foot buffer be provided on the M-1 property when abutting a different district. See Section 5.17 for other requirements.
- .2 Mining not involving blasting or use of explosives (e.g., surface mining, strip mining, and some subsurface mining) shall require a 500-foot buffer be provided on the M-1 property when abutting a different district. See Section 5.17 for other requirements.
- .3 Any question of whether a mining use requires a 500-foot or 1,000-foot buffer shall be left to the interpretation of the Zoning Administrator, who shall be provided site plans and operational descriptions as required to make the necessary determination.
- .4 Other non-mining uses in the M-1 district shall require a 500-foot buffer be provided on the M-1 property when abutting a different district. See Section 5.17 for other requirements.

Sec. 7.15 PUD PLANNED UNIT DEVELOPMENT DISTRICT

- 7.15.1 A planned unit development district shall be located only in an area where public utilities are available on not less than twenty (20) acres. Said district may consist of various residential dwellings, offices, commercial or industrial sites or combinations thereof on lots of not less than 10,000 square feet developed as a unit.
- 7.15.2 The following shall be filed with the application for rezoning, in addition to any information otherwise required of all rezoning applications:
 - .1 the proposed name of the PUD;
 - .2 an aerial photograph of the area and vicinity;
 - .3 a complete and accurate legal description of the proposed PUD property;
 - .4 a tabulation of total acreage of the site designated for various uses, i.e., parking, structures, streets, parks, playgrounds and utilities;
 - .5 location of all structures in the PUD and proposed building densities (units per acre);
 - .6 proposed circulation pattern of the public streets and private driveways;
 - .7 parking layout which complies with the provisions of this Ordinance concerning off-street parking;

- .8 all access points to the same arterial streets to be located and which shall have been approved by the Zoning Administrator and/or the Georgia Department of Transportation;
 - .9 detailed landscaping plans, including and designating types of buffer or landscape screens placed between abrupt changes of land uses. Buffers shall be required consistent with the most comparable zoning district for the proposed uses, pursuant to Sec. 5.17;
 - .10 detailed development plans, preliminary plat, and other plans showing site grading, street improvements, drainage and public utility locations;
 - .11 designated greenspace of not less than twenty percent (20%) of the total tract excluding buffers but may include drainage, wetlands and floodplain, which shall be dedicated to the City or an approved land trust; or, in the alternative, a proposal for alternative greenspace; and
 - .12 Covenants, and other agreements concerning construction, operation, and administration of the area such as green areas, housing corporations, etc.
- 7.15.3 Consideration of the application for a PUD shall be in accordance with the procedures set forth in Article XV of this Ordinance; provided, however, the applicant may request, at the time of filing the application, an extended presentation time. In that event, the application will automatically be placed last on the agendas of the Planning and Zoning Commission and City Council's public hearings for the date at which the application is to be presented, or the Zoning Administrator may set a special hearing date to consider the same.
- 7.15.4 Except as otherwise expressly provided herein, the PUD shall comply with all the requirements of this Ordinance. Any PUD development shall require that development plans be filed with the Zoning Administrator, and shall require compliance with the *Euharlee Subdivision Ordinance* and the *Euharlee Site Plan Review Ordinance*.
- 7.15.5 **Alternative Greenspace.** In the PUD district, the applicant may propose alternatives from designating 20% greenspace on the project site. The applicant may propose purchasing an equivalent amount of greenspace adjacent and contiguous to existing greenspace elsewhere in the City; the applicant may propose donating an equivalent amount of greenspace to an approved land trust; or the applicant may propose submitting funds to purchase an equivalent amount of greenspace, to be paid into a City greenspace bank for future purchase of greenspace at the City's discretion. Such dollar amounts would be based on appraisals approved by the Zoning Administrator, at pre-development values. Payment or contribution of land shall occur prior to any development permit being issued. Any alternative greenspace arrangement must be approved by the City Council. Alternative greenspace arrangements require the voluntary cooperation of the applicant; otherwise, the standard requirement shall apply.

The following uses may be permitted as conditional uses:

- 7.15.6 Telecommunications structures, subject to Article XII of this Ordinance.

Sec. 7.16 CONSERVATION SUBDIVISION (SPECIAL DISTRICT)

It is the purpose and intent of Euharlee in enacting these regulations to provide for increased greenspace in Euharlee, to comply with the Euharlee Greenspace Program, and to preserve open land in perpetuity for future generations, while not increasing the overall development levels for the City. The purpose is further to increase the aesthetic beauty of the City, improve the value of adjacent property, and generally serve to enhance the public health, safety and welfare of the citizens of Euharlee.

- 7.16.1 A conservation subdivision allows increased residential density in conjunction with the fee simple grant of undeveloped and undisturbed greenspace to the City or to such land trust as the City may designate. The applicant seeking to develop a conservation subdivision must meet with the Zoning Administrator and provide a survey of the entire tract, prior to placement of lots and roads. The City and the applicant shall then agree upon the tract to be donated. Where possible, the tract to be donated should link up with other greenspace tracts or trails. A minimum of one-half of the total acreage of the parcel must be donated to qualify for a conservation subdivision. Alternative greenspace arrangements are also available. See Section 7.16.8.
- 7.16.2 A conservation subdivision is permissible in the following zoning districts: R-1, R-2, RE-1, RE-2, and A-1. However, no property located in the Environmental Overlay District (Sec. 7.17) shall be eligible for a conservation subdivision, and this section shall not apply to such property.
- 7.16.3 Development Regulations: In a conservation subdivision, the following development standards shall apply.
- .1 Minimum lot size is reduced by 50% from the existing minimum residential lot size under that zoning classification, if sewer is available. For example, in authorized "R" districts, minimum lot size reduces to 7,500 square feet. In "RE" districts, minimum lot size becomes 1.5 acres. For A-1, minimum lot size becomes 2.5 acres. If sewer is not to be used for waste disposal, the minimum lot size shall be 50% of the existing minimum, or the amount required by the health department, whichever is greater.
 - .2 The overall density of lots shall not exceed that number which would be permissible under the normal development standards; gross density shall not be increased, except as provided below.
 - .3 In authorized "R" districts, front setbacks are reduced to 15 feet, and rear setbacks are reduced to 20 feet. The minimum width at the building line is reduced to 75 feet. The setbacks and minimum building line width for RE-1, RE-2, and A-1 districts are not changed.
 - .4 Curb and gutter shall not be required in conservation subdivisions in A-1 and RE districts. In these districts only, a 20 percent density bonus shall be granted if the developer chooses to install curb and gutter, and the lot size shall be reduced sufficiently to grant this bonus; however, health department regulations shall still apply.

- 7.16.4 Greenspace areas shall include, but not be limited to, wetlands, river buffer zones, woodlands, wildlife corridors, pastures, meadows, and similar natural property. Greenspace areas shall be contiguous on the parcel. Greenspace shall be contiguous to other greenspace parcels, city or county parks, Corps of Engineer property, national parks, and similar preserved land where possible. Greenspace land shall be undisturbed and undeveloped. Greenspace must be accessible by a city, county or state road, or by easement.
- 7.16.5 Approval of a conservation subdivision shall be granted or denied by the Zoning Administrator in writing. The applicant shall provide a survey and legal description to be prepared of the proposed greenspace, and a preliminary plan showing the greenspace. Greenspace shall be clearly identified on all preliminary plans and all development plans. The Zoning Administrator shall consider the following factors in approving greenspace:
- .1 Whether the applicant has designated and offered to dedicate appropriate amounts and locations of greenspace.
 - .2 Whether the conservation subdivision would be detrimental to the surrounding uses.
 - .3 Whether the terrain or location of the property is not suitable for a conservation subdivision, or is not desirable as greenspace.
 - .4 Whether the area remaining after dedication of greenspace is suitable for development at the proposed density.
- 7.16.6 Greenspace shall be dedicated to the City (or to such land trust as the City may designate) prior to approval of the final plat, by fee simple deed, to be preserved in perpetuity as greenspace. Appeal of the approval of a conservation subdivision must be initiated within 30 days of written approval by the Zoning Administrator of the conservation subdivision. If an appeal is initiated, the applicant may withhold dedication until the appeal is completed.
- 7.16.7 Appeal of the Zoning Administrator's decision to approve or deny a conservation subdivision can be taken by the applicant or any aggrieved citizen, or by the City Council, by filing a notice of appeal within 30 days with the Zoning Administrator, who shall forward the appeal directly to the Hearing Examiner. The Hearing Examiner shall hear the appeal within forty-five (45) days. Appeals from the Hearing Examiner shall be to the Superior Court pursuant to Article XIV.
- 7.16.8 Alternative Greenspace. In a conservation subdivision, the applicant may propose alternatives from the standard requirement. The applicant may propose purchasing an equivalent amount of greenspace adjacent and contiguous to existing greenspace elsewhere in the City; the applicant may propose donating an equivalent amount of greenspace to an approved land trust; or the applicant may propose submitting funds to purchase an equivalent amount of greenspace, to be paid into a City greenspace bank for future purchase of greenspace at the City's discretion. Such dollar amounts would be based on appraisals approved by the Zoning Administrator, at pre-development values. Payment or contribution of land shall occur prior to any development permit being issued. Any alternative greenspace

arrangement must be approved by the City Council. Alternative greenspace arrangements require the voluntary cooperation of the applicant; otherwise, the standard requirement shall apply.

Sec. 7.17 ENVIRONMENTAL OVERLAY DISTRICT

- 7.17.1 Purpose. The purpose of this district is to protect environmentally sensitive properties from development that is harmful to the health, safety, and welfare of the City. To that end, it requires that developments in designated overlay districts comply with the additional buffer and open-space requirements of this district, in addition to complying with the site-plan submission requirement. The overlay district is intended to provide for the preservation of greenspace as a nonstructural stormwater runoff and watershed protection measure; to provide a residential zoning district that permits flexibility of design in order to promote environmentally sensitive and efficient uses of the land; to preserve in perpetuity unique or sensitive natural resources such as groundwater, floodplains, wetlands, state waters, streams, steep slopes, woodlands and wildlife habitat; to permit clustering of houses and structures on less environmentally sensitive soils which will reduce the amount of infrastructure, including paved surfaces and utility easements, necessary for residential development; and to reduce erosion and sedimentation by minimizing land disturbance and removal of vegetation in residential development.
- 7.17.2 Environmental Overlay District. The Environmental Overlay District is hereby established. It shall function as an overlay district. It may be applied as an overlay district to any property currently zoned A-1, RE-1, RE-2, or R-1, as indicated on the Official Zoning Map. Property may be added to or taken from the Environmental Overlay District by application for amendment to the Official Zoning Map. Property in the overlay district shall be restricted as stated in the applicable underlying zoning district, and shall be subject to the additional requirements of this district. Where the two provisions conflict, the provisions of this district shall control. Other applicable provisions of the Euharlee Zoning Ordinance shall still apply (e.g., provisions in Articles V, VI, VIII, XI, etc.), unless a conflicting provision is contained herein, in which case the more restrictive provision shall apply.
- 7.17.3 Uses Permitted. The permitted and conditional uses in the Environmental Overlay District shall remain unchanged from the underlying zoning district.
- 7.17.4 Site Plan Requirement. For any residential subdivision development in the Environmental Overlay District, the developer shall submit plans as required by the Euharlee Land Subdivision Regulations. Such plans shall satisfy the requirements of this district in addition to the requirements of the Land Subdivision Regulations, and shall show all information necessary to ensure compliance with this district. Additional information that may be requested by the Zoning Administrator based on specific or unique conditions of the property or area shall be provided by the applicant on the plans.
- 7.17.5 Buffer Requirements. 1) *River buffer.* Any subdivision on property adjacent to the Etowah River shall provide an undisturbed buffer of at least two hundred (200) feet measured from the high water mark. 2) *Residential buffer.* Any portion of a

subdivision development adjacent to other residentially-zoned property that is not in this district shall require a fifty (50) foot undisturbed or vegetated buffer. The Zoning Administrator shall determine the buffer required based on the existing conditions of the site, such that it shall meet the standards of Sec. 5.17.5 and 5.17.6 for buffers. There shall be a continuing requirement to maintain buffers in a vegetated state.

7.17.6 Open Space Preservation. Any subdivision shall be required to preserve at least forty percent (40%) of the tract or parcel as open space. Areas in floodplains and required buffers may be counted towards the open space requirement. Areas in required buffers may be counted towards the open space requirements. Conventional swimming pools, tennis courts, and associated parking areas are non-permeable and not considered open space for the purposes of this section, but may be included in the overall site plan.

- .1 Open space shall consist of undisturbed or minimally disturbed portions of a development tract. It shall be the preference that environmentally sensitive land is preserved as open space, such as groundwater, floodplains, wetlands, state waters, streams, steep slopes, woodlands and wildlife habitat. That shall also be a preference for aesthetically desirable land to be preserved as open space. Open space may contain walking trails.
- .2 Open space shall be owned and maintained by a homeowners' association; it shall not be split among lots. Any space that is a portion of an individual lot shall not count towards open space.
- .3 Open space may include conservation of natural, archeological, or historical resources; landscaped commons and landscaped islands or similar conservation-oriented areas; nonstructural stormwater management practices; easements for drainage, access, and underground utility lines; or other conservation-oriented uses compatible with the purposes of this article.
- .4 Open space shall be contiguous, and may not be linked by corridors of less than 50 feet in width. The configuration shall also serve to protect neighboring properties and environmentally sensitive properties, as well as meet the other purposes of this district and the standards listed below.
- .5 The developer shall consult closely with the Zoning Administrator regarding the configuration of open space, and the ultimate configuration of open space shall be subject to the approval of the Planning and Zoning Commission during the subdivision plat review process. The Planning and Zoning Commission has discretion to determine whether the configuration of the subdivision promotes the purposes of the district, and in so determining shall be guided by the following standards: whether the proposed configuration:
 - 1) preserves environmentally sensitive land;
 - 2) provides contiguity of open space;
 - 3) is easily maintainable by the homeowners' association;
 - 4) does not negatively impact neighboring properties or the environment; and
 - 5) preserves aesthetically desirable land.

7.17.7 Density. The overall density of a subdivision development in this district shall be calculated based on the overall acreage of the tract, minus any floodplain area and

minus one-half of the areas of any mandatory river buffer area. The remaining number of acres shall be multiplied by the “density factor” listed below (based on the underlying zoning district), and the resulting number shall equal the maximum number of lots permitted in the development (rounded).

<u>Zoning District</u>	<u>Density Factor</u>
A-1	0.5
RE-1, RE-2	0.7
R-1	2.2

Examples:

R-1 tract. If a 40-acre R-1 tract contained 3 acres of floodplain and 5 acres of river buffer, the density calculation would be $40 - 3 - 2.5$ (i.e., $\frac{1}{2}$ of 5) = $34.5 \times 2.2 = 75.9$, which means the tract could have a maximum of 76 lots.

A-1 tract. If a 100-acre A-1 tract contained 4 acres of floodplain and 10 acres of river buffer, the density calculation would be $100 - 4 - 5$ (i.e., $\frac{1}{2}$ of 10) = $91 \times 0.5 = 45.5$, which means the tract could have a maximum of 46 lots.

- 7.17.8 Area, Lot Size, and Setback Requirements. In order to encourage and promote preservation of open space, minimum lot sizes and setbacks are greatly reduced. Minimum lot size in this district (whether the underlying zoning is A-1, RE-1, RE-2 or R-1) shall be 10,000 square feet (or as required by the health department); front setbacks shall be 20 feet, side setbacks shall be 7 feet, and rear setbacks shall be 20 feet; minimum width at the street and building line shall be 50 feet, 30 feet in cul-de-sacs.
- 7.17.9 Homeowners' Association. It shall be mandatory for any subdivision in this district to have a homeowners' association, which shall be responsible for the maintenance of open space and buffers.

ARTICLE VIII

AREA, YARD, & HEIGHT REQUIREMENTS

Sec. 8.1 Table of Area, Yard and Height Requirements. All units in feet unless otherwise indicated. See the applicable zoning district regulations for further information. See Sec. 5.17 for transitional buffer requirements between dissimilar zoning districts.

Minimum Lot Size			Building Set Back From R/W		Minimum Yard Requirements		
District	Area	Width (at bldg. line)	Major Street	Other Street	Side	Rear	Max. Bldg. Ht. ²
R-1	15,000 sq. ft. ^{3,7}	100 ^{1,8}	25 ⁸	25 ⁸	10	25 ⁸	50
R-2	15,000 sq. ft. ^{3,7}	100 ^{1,8}	25 ⁸	25 ⁸	10	25 ⁸	50
R-3	15,000 sq. ft. ³	100 ¹	25	25	10	25	50
R-6	10 acres ⁹	Sec. 7.8	25 ⁶	25 ⁶	10 ⁶	25 ⁶	50
RE-1	3 acres ⁷	100 ¹	40	40	10	25	50
RE-2	3 acres ⁷	100 ¹	40	40	10	25	50
PUD	20 acres ⁹	Sec. 7.15	40 ⁶	25 ⁶	10 ⁶	25 ⁶	50
C-1	15,000 sq. ft. ^{3,5}	100	40	40	20 ⁴	20 ⁴	50
C-N	15,000 sq. ft. ^{3,5}	100	40	40	20 ⁴	20 ⁴	50
I-1	1 acre ⁵	100	40	40	20 ⁴	20 ⁴	75
I-2	1 acre ⁵	100	40	40	20 ⁴	20 ⁴	75
A-1	5 acres ⁷	100	40	40	10	25	50
M-1	100 acres	2000	1000	1000	1000	1000	75
O/I	15,000 sq. ft. ³	100	40	40	20 ⁴	20 ⁴	50

Notes:

1. Except on cul-de-sac lots; on such lots, the 25 ft. front setback, 10 ft. side setback and 25 ft. rear setback requirements must all be satisfied.
2. Except as noted in 5.3, 5.4 and 5.5, and as noted in the sign ordinance, Article XI.
3. If the lots use sewer for waste disposal; if sewer is not available, the minimum shall be 26,000 square feet or as specified by the health department, whichever is greater.
4. When abutting a different district, a side & rear yard shall be provided as stated. When abutting an area zoned the same as the subject property, no side or rear yard shall be required, except that minimum fire code requirements shall in all cases be met.
5. If no transitional buffers (i.e., buffers between differing zoning districts) required. If transitional buffers (see Sec. 5.17) are required, the minimum lot size shall be an amount sufficient to accommodate all required buffers, plus one acre in I-1 or I-2 properties, or plus 15,000 sq. ft. in C-1, C-N, and O/I parcels.

6. Setbacks apply to district in general; setbacks and yard areas for individual lots in R-6 and PUD districts governed by Sections 7.8 and 7.15 respectively.
7. In Conservation Subdivisions (See Sec. 7.16), minimum lot size is 50% of the existing minimum lot size: R-1, R-2, reduce to 7,500 sq. ft.; RE-1 and RE-2 reduce to 1.5 acres; A-1 reduces to 2.5 acres. However, if sewer is not used, the minimum lot size is either 50% of the existing minimum, or the minimum amount required by the health department, whichever is greater.
8. In Conservation Subdivisions (Sec. 7.16), for “R” districts, the minimum front setback is reduced to 15 feet, the minimum rear setback is reduced to 20 feet, and the minimum width at the building line is reduced to 75 feet.
9. Minimum size for development; minimum lot size governed by Sec. 7.8 and 7.15 respectively.

ARTICLE IX

RESERVED

ARTICLE X

STANDARDS FOR CAMPGROUNDS

Sec. 10.1 CAMPGROUNDS IN GENERAL

All campgrounds, regardless of whether the camp sites are offered for sale, developed as rental sites, or let on assignment, are subject to the regulations concerning subdivisions contained herein unless separate standards are specified. Specific developments may be excluded from certain portions of the regulations when, in the opinion of the City Council, application of the regulations would serve no reasonable purpose nor be in keeping with the intent of these regulations and standards. Plat requirements for subdivisions set out in this Ordinance apply to all campgrounds.

The following standards shall apply to all campgrounds containing two (2) or more camp sites or camp lots, including sites for tents, accommodations for backpackers, recreational vehicles (RV's) and camping from automobiles:

- 10.1.1 All proposed and required water sources and sanitary facilities serving campgrounds shall conform with the requirements of the Georgia Department of Human Resources, Public Health Division, and the Georgia Department of Natural Resources, Water Supply Section, as appropriate.
- 10.1.2 Permanent structures other than camp platforms and recreational, support and sanitary facilities shall be prohibited unless the developer or the owner can prove, to the Planning and Zoning Commission's satisfaction, the necessity or desirability for such a structure.
- 10.1.3 Conventional, industrialized and manufactured houses are prohibited on all camp sites.

- 10.1.4 In lieu of providing individual parking spaces for each camp site, the developer may widen minor collector streets and cul-de-sacs to accommodate parking on road rights-of-way, provided sufficient width is maintained to allow normal flow of traffic. Widening of streets to permit parking on main thoroughfares is prohibited.
- 10.1.5 Continuous camping shall be restricted to a period of no more than ninety (90) days.
- 10.1.6 Each campground shall have access to a source of potable water approved by the applicable health authority. It is preferable to provide one (1) water outlet per camping unit; however, a minimum of one (1) outlet for every two (2) units shall be provided with two (2) hose bibs equipped with vacuum breakers. Each unit shall have access to water within fifty (50) feet of an RV pad. All water taps or outlets serving camp sites shall be of a type compatible with garden hose connections. Water outlets shall be located at least ten (10) feet from sanitary sewer line taps and electrical outlets.
- 10.1.7 The road circulation pattern shall be a one-way paved or gravel-reinforced system attached to a main two-way circular thoroughfare. If a loop system is used, it shall contain a pull-through site arrangement or back-in site ranging from a forty-five (45) degree to a ninety (90) degree angle.
- .1 Road widths on the one-way loop shall be at least fifteen (15) feet; double lane roads shall have a minimum width of twenty (20) feet. The circulation system shall parallel existing contours as closely as possible and shall not exceed a sixteen (16) percent slope. The turning radius in loops and turns shall not be less than thirty (30) feet, including parking spurs at individual RV sites.
 - .2 Parking spurs shall be located so that trailer doors face away from interior roads and into the site. Utility hookups shall be located to the left rear of the RV.
 - .3 Permanent drainage structures shall be designed for anticipated run-off and shall be installed in the initial phase of road construction.
 - .4 Depths of cuts and fills shall be held to a minimum in order to avoid excessive land disturbance. The smallest practical area shall be denuded at any one time during the construction period. Slopes steeper than 2:1 shall not be cut. Cuts into steeper slopes must be justified. A Soil and Erosion Sedimentation Plan shall be filed and approved prior to any construction.
- 10.1.8 All camp fires shall be contained and controlled. Stoves, grills, fireplaces, pits, and fire rings are recommended. Facilities shall either be provided for camp sites or fires restricted to designated locations. No fire shall be allowed within ten (10) feet of a bottled gas container or other combustible source of fuel, and no open fire shall be left unattended.
- 10.1.9 All campgrounds shall provide fly-proof, watertight, rodent-proof containers for the disposal of refuse. Containers shall be provided in sufficient number and

capacity to properly store all refuse. Refuse for camping areas shall be collected at least once a week.

Sec. 10.2 CAMP SITES FOR ACCOMMODATION OF RV'S

10.2.1 In General:

- .1 Camp sites for accommodation of RV's shall meet the requirements of the "Rules of Department of Public Health for Tourist Accommodation," as now or hereafter amended.
- .2 To prevent intensive site use and to maintain an aesthetic camping atmosphere, density shall not exceed ten (10) sites per acre.
- .3 Each recreational vehicle site with individual parking shall contain at least one (1) reinforced surface parking space incorporated into the site itself and shall be level from side to side with sufficient crown to provide adequate drainage.
- .4 Parking dimensions may vary from single auto trailer attached vehicle back-in of 14 x 60 feet to side-by-side arrangements of trailer and auto of twenty-nine (29) feet long and thirty (30) feet wide. Various combinations may be used, but dimensions to accommodate trailer width with extended outside awning shall be at least fourteen (14) feet.
- .5 RV sites shall be at least twenty (20) feet apart, edge to edge, and the center of all camping units shall be at least thirty (30) feet from the edge of the campground road.
- .6 Electrical outlets: Each RV site shall have access to a minimum of one 110 volt electrical outlet supplying thirty (30) amperes of electrical current. All electrical outlets shall be located a minimum of ten (10) feet from water connections, sanitary sewer line taps, and waste water disposal facilities.

Sec. 10.3 SANITARY FACILITIES FOR ACCOMMODATION OF INDEPENDENT RV'S

In campgrounds with access to a sewage system, each camp site shall contain a sewer connection with suitable fittings to permit a watertight junction with the RV outlet. Each sewer connection shall be constructed so that it can be closed and when not in use shall be capped to prevent escape of odors.

- 10.3.1 A sanitary dump station built to the requirements of the local sanitarian shall be provided at the entrance to the campground or other location convenient to all camp sites. The dump station shall be located so that the left rear of vehicles will slope slightly toward the dump station when connected for emptying.
- 10.3.2 Sites which do not have access to a sewer hookup shall have convenient access to a suitable place for disposal of sink or tub water.

Sec. 10.4 SANITARY FACILITIES FOR ACCOMMODATION OF DEPENDENT RV'S

All campgrounds for the accommodation of dependent RV's (i.e., trailers, non-motorized RV's) and tents shall provide sanitary facilities connected to a sewerage system. Whenever possible, these facilities shall be connected to a public sewage system.

- 10.4.1 Toilets, lavatories, and bathing facilities shall be provided as follows: A minimum of one (1) toilet stool per four (4) camping units or fraction thereof, and one (1) urinal for each toilet facility designated for men; one (1) lavatory and one (1) tub or shower head for every ten (10) persons or fraction thereof, with a minimum of one (1) stool, one (1) lavatory and one (1) tub or shower head for each sex.
- 10.4.2 Toilet facilities shall be plainly marked, separate for each sex, lighted at night, and shall be located no farther than 200 feet from any camp pad. Toilet facilities may be located in a central building or in two or more buildings according to the size of the campground and location of the camp sites in relation to the facilities.
- 10.4.3 Adequate provisions shall be made for the disposal of dishwater according to the size of the campground. A suggested ratio is one disposal unit per ten (10) camp sites.

Sec. 10.5 CAMP SITES FOR TENTS

Construction of tent pads is not required for pup tents or other small shelters used by backpackers. Provisions for walk-in campgrounds are contained in Section 10.6.

- 10.5.1 Each tent site shall contain a minimum space of 30 x 30 feet. Density shall not exceed 10 sites to the acre. Tent sites with individual parking arrangements shall contain one automobile parking space at least 20 x 10 feet.
- 10.5.2 Each site shall contain a reinforced, fairly level tent pad. The pads shall be approximately 16 x 16 feet to provide maximum flexibility of use but shall not contain less than an area of 12 x 12 feet. The tent pad shall be a minimum of six (6) inches high and constructed of gravel, crushed aggregate, or equivalent material which will allow runoff from precipitation to flow through the pad. Pads constructed of tamped earth, asphalt or other impervious materials are prohibited. Tent pads in excess of ten (10) percent slope shall be leveled. A three to five percent slope is preferable.
- 10.5.3 Provisions for sanitary facilities are the same as for dependent RV's set out hereinabove.

Sec. 10.6 WALK-IN CAMPGROUNDS

Camping is prohibited in areas where a source of potable water and access to sanitary facilities are not provided.

- 10.6.1 Walk-in campgrounds shall have access to a source of potable water within seventy-five (75) feet of all sleeping areas. In locations where a water supply system is not possible, potable water may be supplied by an approved well with a hand pump or by water from pickup stations.

10.6.2 All walk-in campgrounds shall have access to the use of a toilet facility containing a minimum of one (1) seat for every fifteen (15) campers and a minimum of one (1) facility for each area. A toilet facility shall be located within 300 feet of each camping space.

Sec. 10.7 CAMP SITES FOR MIXED USES

Campgrounds may be developed to provide more than one type of camping site in the same area. When uses are mixed, the highest, or most strict, standards shall apply to development of the entire campground with the exception of development of walk-in camping areas in a campground designed for mixed uses. In such a development, areas for walk-in campers shall be separated from other types of camp sites and located so that camp fire smoke or noise from group activities will not constitute a nuisance to other campers.

Sec. 10.8 CAMPGROUND DESIGN

The ideal design is one which will be compatible with the natural features and topography of the tract undergoing development; and one which will provide safe, healthful, and convenient camping facilities for campground users consistent with minimum land disturbance.

ARTICLE XI

REGULATION OF SIGNS

Sec. 11.1 PURPOSES

It is the purpose of Euharlee in enacting these regulations to provide standards to safeguard life, public health, property and welfare by regulating the location, size, illumination, erection, maintenance and quality of materials of all signs. More specifically, signs have a powerful impact on the aesthetic environment of the community, and it is the purpose of this Ordinance to encourage an aesthetically attractive environment, allowing sufficient opportunities for communications to serve business, interest groups and the public, while complying with the Federal and State Constitutions and laws. Signs create visual clutter and therefore should be regulated in their size, location, construction and illumination. Signs can detract from the beauty of the neighborhood and lower property values. In the absence of regulation, the number of signs tends to proliferate, with property owners desiring ever-increasing numbers and sizes of signs, leading to cluttered and aesthetically blighted thoroughfares. In addition, the competition among competing sign owners for visibility of their signs contributes to safety hazards for both vehicles and pedestrians and undermines the sign owners' original purpose of presenting a clear message of its idea or identification of its premises. In seeking to comply with federal and state law, the city has determined the following: large signs are, as the U.S. Supreme Court has recognized, an aesthetic harm; the Georgia Supreme Court has upheld sign regulations on the basis of aesthetics and preserving the beauty of environment; and, the Eleventh Circuit has recognized portable signs are visual clutter and a potential traffic hazard. The City's ordinance is consistent with such holdings, and is within the law and constitutional, which is a goal of the City. The goal of this Article is to avoid being an impermissible content-based regulation, and instead to be a permissible time, place and manner restriction.

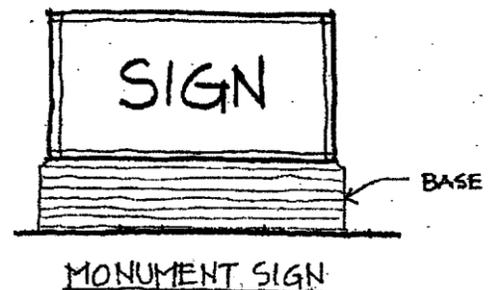
Many signs can also be a hazard and negatively impact traffic safety, by distracting drivers and blocking views of other vehicles and dangers, by making intersections more treacherous, and by making it difficult to see oncoming traffic when entering a roadway. Therefore, it is also the purpose of this Ordinance to prevent those harms by regulating signs to safe locations, safe sizes, with proper and safe illumination and construction. Regulation of the size, height, number and spacing of signs is necessary to protect the public safety, to assure compatibility of signs with surrounding land uses, to enhance the business and economy of the City, to protect the public investment in the streets and highways, to maintain the tranquil environment of residential areas, to promote industry and commerce, to eliminate visual clutter and blight, to provide an aesthetically appealing environment, and to provide for the orderly and reasonable display of advertising and other messages for the benefit of all the City's citizens.

Finally, it is the belief of the City that more communication is desirable during the election cycle, so that all citizens may freely express their viewpoints during the election campaigns, and therefore the ordinance allows increased opportunities to erect signs during these periods, without limiting content in any fashion. At all times, any sign permitted under this regulation can carry any message, political or non-political, commercial or non-commercial. However, it is not the intent of this Article that all signs are built to the maximum size. The City encourages use of the minimum signage necessary to meet the purposes required.

Sec. 11.2 GENERAL REGULATIONS

- 11.2.1 No sign shall be placed or maintained on any lot, development, building or other structure within the incorporated area of Euharlee except in conformity with this Sign Ordinance.
- 11.2.2 This Article does not regulate content of signs, only time, place and manner of sign erection. Notwithstanding any other restrictions in this Sign Ordinance, any sign, display or device allowed under this Ordinance may contain any commercial or non-commercial message. However, such messages cannot depict obscenity, as defined by O.C.G.A. § 16-12-80, nor can they depict sexual conduct or sexually explicit nudity, as defined in O.C.G.A. § 36-60-3, nor advertise any activity illegal under the laws of Georgia or the United States, since prohibition of the foregoing is narrowly tailored to serve compelling government interests.
- 11.2.3 Definitions: As used in this Article, the following words have the following meanings. The general definitions and interpretative rules of the zoning ordinance shall also be used. To the extent those general rules or definitions conflict with these specific definitions, these definitions shall control.

Monument-Style Sign: Monument-style signs shall be permanently constructed, and not on a pole, but rather with a base at least two feet high, two feet wide and four feet long, which base shall be covered in brick, stone, masonry or similar permanent materials (excluding wood), with the sign resting on the base. The Zoning



Administrator may administratively approve other designs and materials consistent with this definition.

Planned Center: A single office, commercial, or industrial property that is designed or intended for occupancy by two or more principal businesses that are separately owned and have no corporate relationship (e.g., strip shopping mall, office complex, industrial park, etc.).

Sign: Any display of words, shapes or images designed to convey a message to the viewer, located on the exterior of any dwelling, building or structure, or located anywhere on a lot upon a dedicated supporting structure or device, including poles, banners, windows and similar devices.

Sign Face: The actual message-carrying portion of the sign that can be used to display content, including any area that can display or does display words, pictures or other communicative elements of the sign, including the background color.

Sign Structure: This includes all the elements of the sign, including its supporting structure, sign face, base, lights and every portion of the sign.

Entrance Sign: A sign erected at the entrance to a development or subdivision. May only be single sided.

Ground Sign: A sign that is anchored to the ground and is wholly independent of a building for support. Freestanding signs are included in this definition, as are signs on poles, frames, or other mounting structures other than buildings.

Wall Sign: A sign that is fastened directly to or is placed or painted directly upon the exterior wall of a building, with the sign face parallel to the wall, and extending from the surface of the wall no more than 24 inches. A sign that is attached at an angle to the wall may extend outward no more than five feet, and requires an administrative variance from the Zoning Administrator.

Sec. 11.3 PROCEDURES

11.3.1 Building Permits and Sign Registration.

- .1 Signs using electrical wiring and connections (i.e. illuminated signs) require a building permit, and the City Building Official should be contacted regarding such signs.
- .2 No permit is required from the Zoning Administrator prior to erection of a sign. However, all parties are advised to consult with the Zoning Administrator to avoid erecting signs that violate this Article, and it is suggested that a Sign Registration Form be filed prior to construction to ensure the sign is in compliance with the Article.
- .3 Sign Registration Form. Within 60 days of the erection of any Standard Permitted Sign or Additional Permitted Sign in the O/I, C-N, C-1, I-1, I-2, M-1 or PUD zoning districts, the sign or property owner is required to file a Sign Registration Form regarding the sign.

- .4 The Sign Registration Form shall be provided by the Zoning Administrator, and shall require at a minimum the following information, as well as any additional information required by the Zoning Administrator to determine if the sign complies with this Article. One sign form shall be required per sign:
- (a) the name and address of the property owner and sign owner, if different;
 - (b) the address of the sign, and description of the parcel upon which the sign is located;
 - (c) the zoning district of the property containing the sign;
 - (d) site plan showing the location of the sign on the lot, including indicating setbacks and distances of the sign to adjacent property lines and rights-of-way;
 - (e) elevation drawing showing the height and dimensions of sign face(s), and height of sign structure;
 - (f) square foot area per sign face and the aggregate square foot area if there is more than one sign face; and
 - (g) the signature of either the property owner or sign owner.

11.3.2 The City reserves the right to take legal action to remove signs erected in violation of this Article.

- .1 Failure to file a Sign Registration Form in a timely manner shall be a violation of this Article and shall result in a fine of \$50 plus court costs and surcharges.
- .2 Each sign erected or displayed in violation of this Article shall result in the following penalties:
 - (a) Warning of 30-day notice to comply.
 - (b) Failure to comply within 30 days shall be punished by a fine of not less than \$150 plus court costs and surcharges. After the 30th day from notice, each additional day that the sign is not in compliance may be treated as a separate violation for purposes of calculating the fine.
- .3 Notwithstanding the foregoing, whenever a sign is placed in the City's right-of-way, it may be removed and disposed of immediately and without prior notice.

Sec. 11.4 PERMITTED SIGNS

11.4.1 If not otherwise stated, any sign not specifically permitted in a zoning district as provided under this section shall be prohibited.

11.4.2 Standard Permitted Signs.

The following signs are permitted in the following zoning districts. See Sec. 11.2.3 for definitions. A double-sided (double-faced) sign is counted as one sign, but each face counts towards the maximum area permitted. (see Sec. 11.5.2. and see Sec. 11.5.3.) Values in the table are shown in feet (ft.) or square feet (sf).

Table of Standard Permitted Signs.

Districts /Uses	No. of ground signs	Total area of all ground sign faces	Max area of single ground sign face	Max height of ground signs	Window Signs (% of window area facing road frontage)	Wall Signs (number/ max total area) ³	Max size of single wall sign ³
A-1, RE-1, RE-2	3	32 sf	16 sf	5 ft.	2, up to 8 sf total area	None	n/a
R-1, R-2, R-3, and R-6	3	16 sf	16 sf	5 ft.	2, up to 8 sf total area	None	n/a
C-1, C-N, O/I, single lot, use under 10,000 sf	1 ²	70 sf	35 sf	6 ft.	25%	2/60 sf	40 sf
C-1, C-N, O/I single lot, use over 10,000 sf	1 ²	100 sf	50 sf	8 ft.	25%	3/90 sf	60 sf
O/I, C-1, C-N Planned Center	2 ²	200 sf	50 sf	8 ft.	25%	2 per business/ 60 sf per business	40 sf
I-1, I-2, M-1 single lot	1 ²	70 sf	35 sf	6 ft.	25%	4/150 sf	60 sf
I-1, I-2, Planned Center	2 ²	200 sf	50 sf	8 ft.	25%	4 per business/ 150 sf per business	250 sf
PUD ¹	Fn. ¹	Fn. ¹	Fn. ¹	Fn. ¹	Fn. ¹	Fn. ¹	Fn. ¹

¹ Within a PUD district, signs are allowed consistent with the closest parallel zoning district relating to the underlying uses, either R-1, R-2 or C-N.

² Monument-style signs are the only style ground signs permitted for this district and use.

³ No wall sign may cover more than 10% of the wall it is located on. Only one wall sign per side of the building, limited to the maximum area stated. In no event shall more than one wall sign be displayed on the same wall or façade.

11.4.3 Additional Permitted Signs.

Entrance signs. Entrance signs are additional signs permitted at the entrance to a residential subdivision. Entrance signs may only be single-sided, monument-style signs, unless only one is erected, in which case it can be double-sided. Maximum

height shall be five feet, maximum area of a sign face shall be 24 square feet. Entrance signs must be set back from the right-of-way a distance equal to their height plus one foot, and must be placed so as to not block sight lines for traffic. The location of such signs shall be submitted to the City engineer for review and approval prior to construction.

11.4.4 Class 1 Temporary Signs (Weekend Signs)

Class 1 temporary signs are temporary signs permitted to be erected after 1:00 p.m. on any Friday and must be taken down by 8:00 p.m. the following Sunday.

- .1 Class 1 temporary signs may not exceed three feet in height and four square feet per side, and shall not be more than two-sided. Such signs may not be of a permanent nature.
- .2 Class 1 temporary signs may be erected in any zoning district. Such signs must not be placed within 10 feet of the curb or pavement or right-of-way, and cannot be placed within the right-of-way. They may only be placed with the property owner's permission.
- .3 Nothing in this section affects the regular sign ordinance provisions; these are extra signs allowed during the times and days stated above. Any message can be placed on Class 1 temporary signs, subject to Sec. 11.2.2.
- .4 Class 1 temporary signs that are erected unlawfully or in violation of this Article, that constitute a safety hazard, that are located in improper areas, or are left erected beyond the permissible time frame, are a public nuisance and are subject to being removed and destroyed by the City without notice.
- .5 No more than one Class 1 temporary sign may be erected for every 10 feet of road frontage on any lot. Such signs may not pose a traffic hazard nor create a nuisance, and shall comply with all other relevant provisions of this Article (e.g. type, location, construction, etc.).

11.4.5 Class 2 Temporary Signs (Election Cycle Signs)

Class 2 temporary signs are temporary signs permitted to be erected during any election cycle.

- .1 Class 2 temporary signs shall not exceed five feet in height and 16 square feet per side, and shall not be more than two-sided. Such signs may not be of a permanent nature.
- .2 Class 2 temporary signs are permitted in any zoning district. Such signs must be placed 10 feet of the curb or pavement or right-of-way, and cannot be erected within the right-of-way. They may only be placed with the property owner's permission.
- .3 The election cycle is the time period starting 60 days prior to any primary, special election, general election, or run-off in the precinct(s) containing the City of Euharlee, and ending 5 days after the primary, special election,

general election, or run-off, is held. Election cycles may overlap. For example, the election cycle for a general election may overlap with the election cycle for a runoff.

- .4 Nothing in this section affects the regular sign ordinance provisions; these are extra signs allowed during the election cycle. Any message can be placed on Class 2 temporary signs, subject to Sec. 11.2.2.
- .5 Class 2 temporary signs that are erected unlawfully or in violation of this Article, that constitute a safety hazard, that are located in improper areas, or are left erected beyond the permissible time frame, are a public nuisance and are subject to being removed and destroyed by the City without notice.
- .6 No more than one Class 2 temporary sign may be erected for every 10 feet of road frontage on any lot. Such signs may not pose a traffic hazard nor create a nuisance, and shall comply with all other relevant provisions of this Article (e.g. type, location, construction, etc.).

11.4.6 Very Small Signs. Very Small Signs are signs of no more than one (1) square foot, and no more than four feet in height. Any number of such signs are permitted in addition to all other signs permitted under this Article, in any zoning district. However, the area of all such sign faces on a single lot, parcel, residence, development, business or property may not exceed 10 square feet, and such signs may not aggregate to form one message.

11.4.7 Internal Signs. Any sign not visible from the outside of a structure or to passing members of the public is not restricted or regulated by this Article.

11.4.8 A-frame signs. One A-frame style sidewalk sign shall be permitted per lot. Such signs shall not exceed four feet in height or three feet in width, shall not be placed to interfere with the public right-of-way, shall not be lighted, and shall only be placed outside during daylight hours.

Sec. 11.5 REGULATIONS FOR SIGNS

11.5.1 Location and Setback

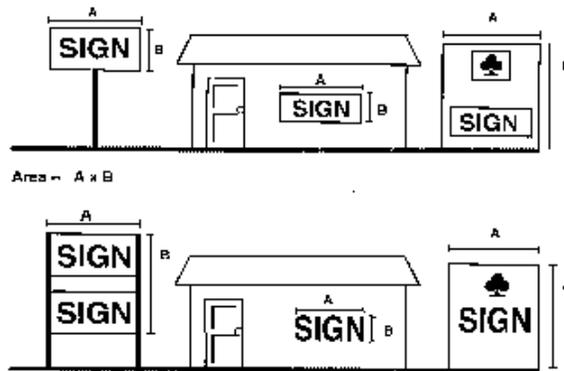
- .1 The property owner must give permission for all sign placement on the owner's property. Signs are not permitted in a City right-of-way without City permission.
- .2 All signs must comply with all side and rear setbacks of the underlying zoning ordinance.
- .3 Signs on private property can be located in front setback areas. For safety reasons, all such signs and sign structures, unless otherwise specified in this Article, must be set back at least five feet from the public right-of-way, or at least 10 feet from the back of curb or edge of pavement, whichever is farther. No portion of a sign or sign structure erected on private property shall encroach on or overhang the public right-of-way or any other person's property.

.4 Distances are measured from the closest portion of the sign (whether that be the base, sign face, or the sign structure) to the right-of-way, curb or pavement.

11.5.2 Height; Height Limits. Height is measured from grade to the highest portion of the sign structure. Height limitations in this Article control over the general height limitations of this zoning ordinance, and apply to any structure that contains a sign. For example, a church spire or radio antenna with a sign would be subject to the height limitations of this Article, rather than general height limitations. Height limitations apply to both the sign and the sign structure, whichever is the tallest. Height is measured from preexisting grade prior to construction. The base of a monument-style sign is included in the height calculation. The Zoning Administrator shall make the determination of height.

11.5.3 Calculation of Area. The area of a sign is calculated by determining the area of the smallest square or rectangle which encloses the sign face and the structure surrounding the sign face. For example, the pole or base would not be included, but any frame holding the sign face in place would be counted. The base of a monument-style sign is not counted towards the sign area. The Zoning Administrator shall make the determination of area. See examples:

11.5.4 Unusual Shaped Signs. Unusual shaped signs are signs that are any shape other than a square or rectangle, and includes signs with projecting elements or features, round, oval, and triangular signs, signs with more than four sides, signs in the shape of an animal, object, or device, and so forth. For all such signs, the area is calculated by calculating the area of the smallest rectangle that will completely enclose all elements of the sign face and sign structure supporting the face, not including the base. The Zoning Administrator shall make a determination of what elements are included within this box. As a result, unusual shaped signs will end up with far less actual sign face than would be permitted for a square sign.



Examples of Sign Face Area Measurements

11.5.5 Projecting Signs. Wall signs may project as specified above. Any sign with an element that would project more than five feet outside the main body of the sign area, in any direction, requires an administrative variance from the Zoning Administrator. A sign that is attached at an angle to the wall may extend outward

no more than five feet, and requires an administrative variance from the Zoning Administrator.

11.5.6 Number. For the purpose of determining the number of signs, ground signs shall be equal to the number of sign structures. All other non-ground signs shall be considered to be a single display surface or display device containing elements organized, related and composed to form a unit, as determined by the Zoning Administrator.

11.5.7 Illumination

- .1 Signs cannot be internally illuminated. All signs may be externally illuminated. External illumination of any sign shall be positioned and shielded so that the light source cannot be seen directly by any passing motorists nor from adjacent dwellings or businesses. The intensity of light from external illumination shall not exceed 20 foot candles at any point on the sign face. Colored lamps are not permitted.
- .2 Flashing, blinking or otherwise varying illumination is not permitted. No external or internal illumination that causes confusion with or distraction from any traffic signal or safety device shall be permitted. LED signs, “TV” type signs, Electronic Variable Message Center (EVMC) signs, or similar signs with changing images or displaying moving pictures are not permitted.
- .3 All externally illuminated signs shall utilize low wattage luminaries, mounted in fixtures designed to direct the light and eliminate light trespass, such as light shining into residences or other neighboring structures.
- .4 The Zoning Administrator shall be authorized to consider an administrative variance to approve prohibited changing copy signs, and internal illumination signs, considering whether the internal illumination or changing copy better serves the purposes of this Article, is more compatible with the preexisting uses or adjacent property, better serves public safety, and/or better serves aesthetic goals of the City.

Sec. 11.6 SAFETY AND CONSTRUCTION STANDARDS

11.6.1 Official Confusion. Signs which contain or are in imitation of an official traffic sign or signal, or can be confused with an official traffic sign, are prohibited.

11.6.2 Fire Safety. No sign or sign structure may be erected or maintained which obstructs any fire escape, ventilation, or door; nor shall any sign or sign structure be attached to a fire escape.

11.6.3 Corner Visibility. No sign or sign structure above a height of three feet shall be maintained within 15 feet of the intersection of the right-of-way lines of two streets, or of a street intersection with a railroad right-of-way.

11.6.4 Traffic Visibility. No sign shall obstruct the view of vehicles entering the roadway (i.e., the view of oncoming traffic by vehicles attempting to enter the road).

- 11.6.5 Construction and Maintenance. All signs shall comply with the current applicable state standard minimum codes, the International Building Code (ICC) and, for illuminated signs, the National Electrical Code (NFPA). Signs other than Class 1 and Class 2 temporary signs must be constructed of durable materials, capable of withstanding weather and wind loads. Sign faces may not be covered with temporary banners or membranes. All signs, together with all their supports, braces, guys, and anchors shall be kept in good repair. Sign face messages must be removed from an abandoned sign if a location has been out of business for six months or more; however, the sign structure may remain if property owner is actively pursuing a new tenant or buyer.
- 11.6.6 Temporary Sign Standards. All Class 1 and Class 2 temporary signs shall be made of waterproof material, and must be attached to an independent mounting device no more than 40 inches above ground level. The mounting device must be secure to prevent the sign from blowing off the device. The mounting device shall bear the name and phone number of the party responsible for the device.
- 11.6.7 Removal of Unsafe Signs and Safety Hazards. The City may remove a sign in violation of this Article, without giving notice to any party, if said sign is upon the public right-of-way or upon other public property; or said sign poses an immediate safety threat to the life or health of any members of the public.

Sec. 11.7 PROHIBITED SIGNS

The following types of signs are prohibited, as stated:

- 11.7.1 Roof Signs (which means signs mounted above a roof or projecting above the roof-line of a structure).
- 11.7.2 Rotating signs.
- 11.7.3 Portable signs (which means signs which are attached to vehicles, trailers, movable structures, or attached to sign structures which are not permanently anchored into the ground, or signs which may be transported or are designed to be transported). Such signs include, but are not limited to, printed banners or billboards attached to vehicles and trailers. Inflatable figures and objects (e.g., creatures, beer cans) fall into this category.
- 11.7.4 Swinging or projecting signs, unless an administrative variance is granted by the Zoning Administrator. No such sign can project more than five feet, and in no case shall this type of sign exceed 10 square feet in sign area. See Sec. 11.5.5.
- 11.7.5 Changing copy signs, moving signs, or signs with moving parts. This includes animated signs involving motion or sound; “trivision”-type signs (with mechanically-rotating panels); signs displaying moving pictures or images; signs with waiving elements, whether motorized or wind-powered; or similar moving signs.

- 11.7.6 Flashing, blinking or signs of varying light intensity, or signs containing exposed neon tubing. Signs with reflective elements that sparkle in the sunlight or that contain luminous paint that glows in the dark are not allowed.
- 11.7.7 Courtesy benches, trash cans, and similar devices displaying signs.
- 11.7.8 Trailer signs (which means signs larger than three square feet mounted on trailers).

ARTICLE XII

TELECOMMUNICATIONS TOWERS AND ANTENNAS

Sec. 12.1 PURPOSE

The purpose of this article is to provide zoning classification requirements for the siting of all wireless, cellular, television and radio telecommunications towers and antennas; to encourage the location of towers in non-residential areas; to minimize the total number of towers within the community necessary to provide adequate personal wireless services to residents of Euharlee; to encourage the joint use of new and existing tower sites among service providers; to locate telecommunications towers and antennas in areas where adverse impacts on the community are minimized; to encourage the design and construction of towers and antennas to minimize adverse visual impacts; and to enhance the ability of the providers of telecommunications services to deliver such services to the community effectively and efficiently.

Sec. 12.2 DEFINITIONS

Words not defined herein shall be construed to have the meaning given by common and ordinary use, and shall be interpreted within the context of the sentence and section in which they occur. Words used in the singular include the plural and words used in the plural include the singular. Words used in the present tense include the future tense. The word “erected” includes the words “constructed,” “located” or “relocated.” The word “map” or “zoning map” means the Official Zoning Map. The word “parcel” includes the word “plot” or “lot.” The word “person” includes the words “individuals,” “firms,” “partnerships,” “corporations,” “associations,” “governmental bodies” and all other legal entities. The word “shall” is always mandatory and never discretionary. The words “used” or “occupied” include the words “intended, arranged or designed to be used or occupied.”

For the purpose of this article, certain terms used herein shall be defined as follows:

- 12.2.1 Administrator means the Zoning Administrator of the Euharlee Planning, Zoning and Development Department or the Administrator’s designee.
- 12.2.2 Alternative tower structure means clock towers, bell towers, church steeples, light/power poles, electric transmission towers, on premises signs, outdoor advertising signs, water storage tanks, and similar natural or man-made alternative-design mounting structures that camouflage or conceal the presence of antennas or towers.

- 12.2.3 Antenna means any exterior apparatus designed for wireless telecommunication, radio, or television communications through the sending and/or receiving of electromagnetic waves.
- 12.2.4 Co-location means the placement of the antennas of two or more service providers upon a single tower or alternative tower structure.
- 12.2.5 Department means the Euharlee Planning, Zoning and Development Department.
- 12.2.6 FAA means the Federal Aviation Administration.
- 12.2.7 FCC means the Federal Communications Commission.
- 12.2.8 Geographic antenna placement area means the general vicinity within which the placement of an antenna is necessary to meet the engineering requirements of an applicant's cellular network or other broadcasting need.
- 12.2.9 Governing Authority means the City Council of Euharlee, Georgia.
- 12.2.10 Height when referring to a tower or other structure, means the distance measured from ground level to the highest point on the tower structure or appurtenance.
- 12.2.11 Preexisting tower and antennas means structures as set forth in Section 12.3.4 of this article.
- 12.2.12 Public officer means that definition specified in the Euharlee Unsafe or Unfit Property Ordinance.
- 12.2.13 Scenic Views means those geographic areas containing visually significant or unique natural features, as identified in the Euharlee Comprehensive Plan.
- 12.2.14 Tower means any structure that is designed and constructed primarily for the purpose of supporting one or more antennas, including self-supporting lattice towers, guy towers, or monopole towers. The term includes radio and television transmission towers, microwave towers, common-carrier towers, cellular telecommunication towers, man-made trees (with accessory buildings/structures) and other similar structures.
- 12.2.15 Visual Quality means the appropriate design, arrangement and location of tower structures in relation to the built or natural environment to avoid abrupt or severe differences.

Sec. 12.3 APPLICABILITY

- 12.3.1 General Application. Except as otherwise provided herein, the provisions, requirements and limitations of this article shall govern the location of all wireless telecommunication, cellular telecommunication, television, microwave or radio transmission tower or antenna installed within the jurisdiction of the governing authority. The provisions, requirements and limitations of this article shall only apply to wireless telecommunication, cellular telecommunication, television, microwave or radio transmission tower or antenna installed within the jurisdiction

of the governing authority. In addition, any provisions, requirements or limitations contained in other articles of the Zoning Ordinance of Euharlee, Georgia, which conflict in any way with the administration of this article or the provisions, requirements or limitations of this article shall be inapplicable to Article XII.

- 12.3.2 Governmental Exemption. Except as otherwise specifically provided for in this article, the provisions of this article shall not apply to the governing authority's properties, facilities or structures. Private facilities and structures placed upon the governing authority's property shall be governed by a lease agreement between the governing authority and the provider.
- 12.3.3 Amateur Radio; Receive-Only Antennas. This article shall not govern any tower, or the installation of any antenna, that is 75 feet or less in height and is owned and operated by a federally-licensed amateur radio station operator from the operator's residence, or is used exclusively as a receive-only antenna; provided, however, only one such tower or antenna per residence shall be excluded from this Article.
- 12.3.4 Pre-Existing Towers and Antennas. Towers and antennas permitted and erected as of September 7, 2001, shall be deemed pre-existing, and shall not be subject to the requirements of this Article. The placement of additional antennas on any nonconforming structure shall not create a vested right for the continued use of the structures should the nonconforming use cease. If an additional antenna is co-located on a preexisting tower after September 7, 2001, the requirement of this Ordinance shall be met.

Sec. 12.4 GENERAL PROVISIONS

- 12.4.1 Conditional Use Required. A conditional use permit shall be required for the placement of any tower or alternative tower structure, except as otherwise permitted herein. Procedures for conditional use permits sought under this Article are contained in Section 12.5.
- 12.4.2 Principal or Accessory Use. A tower and/or antenna is considered a principal use if located on any lot or parcel of land as the sole or primary structure, and is considered an accessory use if located on a lot or parcel shared with a different existing primary use or existing structures. An existing use or structure on the same lot or parcel shall not preclude the installation of an antenna or tower. For purposes of determining whether the installation of a tower or antenna complies with zoning district requirements, including, but not limited to, setback, buffer and other requirements, the dimensions of the entire lot or parcel shall control, even though the antenna or tower may be located on a leased area within such lot or parcel. Towers that are constructed, and antennas that are installed, in accordance with the provisions of this Article shall not be deemed to constitute the expansion of a nonconforming use of structure.
- 12.4.3 Co-location of Antennas Required. Applicants for the erection of a tower or antenna, except amateur radio operators, shall be required to co-locate upon an existing tower structure, if possible. An exception to co-location shall only be made if the applicant submits a report from an engineer demonstrating that an existing tower suitable for co-location does not exist in the geographic antenna placement area, and that no suitable alternative tower structure is available, or if the

applicant submits an affidavit from an employee that while a suitable tower may exist, no space is available thereon. Co-location is permissible provided the new antenna will add no more than ten (10) feet to the height of the tower and related equipment or appurtenances. Increasing the antenna height more than 10 feet requires a conditional use permit. Co-location requires only a building permit, and the information described in Sec. 12.7.2.

Sec. 12.5 CONDITIONAL USE PERMIT REQUIRED

12.5.1 General.

- .1 A Conditional Use Permit shall be required for the construction of a tower in any zoning district. All such uses shall comply with requirements set forth in this article and all other applicable codes and ordinances, unless the applicant can show that the denial of a permit in such a location will cause a significantly harmful and permanent degradation of service which cannot be overcome by any other means including planned or potential locations which would provide the same or similar coverage or capacity.
- .2 In granting a Conditional Use Permit, the Governing Authority may impose conditions to the extent that it concludes such conditions are necessary to minimize adverse effects from the proposed tower on adjoining or nearby properties as set out in Section 12.5.6.

12.5.2 Application; contents; fee. All applications for Conditional Use Permits shall be submitted to the Euharlee Planning, Zoning and Development Department. Each application shall contain as a part thereof detailed plans and specifications as set forth in Section 12.7. An application for a Conditional Use Permit shall not be accepted for processing without the information required in Section 12.7. An application fee shall be charged by the Department in the amount stated in Section 12.9.

12.5.3 Independent Expert Review. The Governing Authority may engage a licensed professional engineer as an independent expert to review any of the materials submitted by an applicant for a Conditional Use Permit and render an opinion regarding any concerns about the proposal, including, but not limited to, structural integrity and the feasibility of alternative sites or co-location. Following the review of an independent expert, the Governing Authority shall convey its concerns to the applicant in writing and shall allow the applicant a reasonable opportunity to address those concerns. If the applicant is unable to satisfactorily address those concerns, the applicant shall be allowed a reasonable amount of time, not to exceed thirty (30) days, following the receipt of the letter, in which to modify the application to alleviate the Governing Authority's concerns or withdraw the application altogether. The expert's opinion shall be considered determinative, unless the applicant agrees to pay the expenses of submitting both opinions for a peer review, which review shall then be considered final. If the independent third-party expert supports the applicant's expert, then the Department shall pay the expenses of said third-party expert. If the independent third-party expert supports the position of the Department, then the applicant shall pay the expenses of said third-party expert.

12.5.4 Public hearing. Before taking action upon the proposed Conditional Use Permit, the Governing Authority shall hold a public hearing on the matter. At least 15 days prior to the date of the public hearing, the Governing Authority shall cause the following notice requirements to be instituted by the Department:

- .1 A sign shall be erected, in a conspicuous location, on or adjacent to the property under consideration. The sign shall state the time, place, location, and purpose of the public hearing.
- .2 A letter shall be sent by first class mail, with proof of mailing obtained from the post office, to all property owners of record of abutting parcels, and to all property owners of residentially-used parcels lying in whole or in part within a distance of two (2) times the height of the proposed tower as measured from its base, giving notice of the public hearing. The letter shall state the same information as required for the sign. Only owners reflected on the records of the tax assessors as of the date of the application shall be entitled to notice. The letter shall be mailed at least 15 days before the hearing. A copy of the letter together with the proof of mailing shall be filed with the Zoning Administrator prior to any hearing.
- .3 A public notice shall be published in the newspaper in which the sheriff's advertisements appear once a week for two (2) consecutive weeks prior to the date of the hearing.
- .4 Subsections (.2) and (.3) above shall be the responsibility of, and at the expense of, the applicant. Failing to comply with the requirements shall render the application out-of-order, and it shall be tabled for one month. If the application is still out-of-order at the next meeting, it shall be considered withdrawn, and the applicant shall have to wait six months to reapply.

12.5.5 Considerations in Approval or Denial of Conditional Use Permits. Any denial of a request to place, construct or modify a telecommunications facility shall be in writing and supported by substantial evidence contained in a written record. The following factors may be taken into consideration in acting upon a Conditional Use Permit application under the provisions of this article:

- .1 The height and setbacks of the proposed tower or antenna(s);
- .2 The proximity of the tower or antenna(s) to residential structures and residential district boundaries;
- .3 The nature of uses on adjacent and nearby properties;
- .4 The surrounding topography;
- .5 The surrounding tree coverage and foliage;
- .6 The design of the tower or antenna(s), with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness;

- .7 The proposed ingress and egress;
- .8 The availability of suitable existing towers or other structures for antenna co-location;
- .9 The impact of the proposed tower or antenna(s) upon scenic views and visual quality of the surrounding area;
- .10 The needs of the applicant as balanced against the detrimental effects on surrounding properties; and
- .11 The impact of the proposed tower or antenna(s) on adjacent and nearby properties.

12.5.6 Requirements for Issuance of Conditional Use Permit. The Conditional Use Permit may be issued by the governing authority only upon satisfaction of the following requirements:

- .1 A proper application filed in accordance with the requirements of Section 12.7;
- .2 The application is otherwise in compliance with the conditions for the proposed conditional use required by this Section;
- .3 The applicant complies with the conditions proposed by the governing authority for the purpose of reducing the harmful effects of the use on surrounding uses and ensuring compatibility with surrounding uses;
- .4 The governing authority determines that the benefits and need for the proposed conditional use are greater than any possible depreciating effects or damages to neighboring or nearby properties; and
- .5 All fees, including expert fees, have been paid in full.

12.5.7 Resubmittal of Conditional Use Application. An application for a Conditional Use Permit which has been denied shall not be resubmitted for a period of twelve (12) months and then only if the applicant can document a substantial change in need for a tower or antenna at the same location.

Sec. 12.6 GENERAL REQUIREMENTS FOR TOWERS

12.6.1 Setbacks and Separation. The following setbacks and separation requirements shall apply to all towers.

- .1 Towers shall be set back a distance equal to the height of the tower from its base to any public right-of-way or occupied structure, or property line of the lot or parcel containing the tower, except when a property owner or adjoining property owner consents in writing to waive the setback and the applicant clearly demonstrates that the tower will collapse within the parent parcel.

- .2 Guy-wires and accessory buildings and facilities shall meet the minimum accessory use location and setback requirements.
- .3 In zoning districts other than I-2 and M-1, towers shall not be located closer than two thousand (2,000) feet from any existing tower. This requirement shall not apply to amateur radio towers.
- .4 Notwithstanding any other provision of this article, no tower or antenna shall be permitted in a residential neighborhood or within two thousand (2,000) feet of any residentially used property unless the applicant can show that the denial of a permit in such a location will cause a significantly harmful and permanent degradation of service which cannot be overcome by any other means including planned or potential locations which would provide the same or similar coverage or capacity. For the purposes of this section, the phrase "residentially used property" shall mean the property on which the residence is located and not more than one acre of land, determined as if the residence was situated in the center of said tract.
- .5 The requirement of Section 12.6.1.4 (above) may be waived by the adjacent property owner(s). In such cases, the applicant shall submit a notarized affidavit from the adjacent owner(s), identifying the property owned, and affirming that he or she agrees that the tower can be erected at the proposed location, which shall be specifically described, including its distance from that owner's residentially used property, as measured in section 12.6.1.4. The affidavit shall further specifically state that the affiant understands that he or she is waiving his or her rights under Section 12.6.1 of the Euharlee Zoning Ordinance. Waivers shall be required of all property owners whose property would otherwise fall within 2,000 feet of the proposed tower.

12.6.2 Aesthetics. The guidelines set forth in this section shall govern the design and construction of all towers, and the installation of all antennas, governed by this article and shall be approved by the Administrator.

- .1 Towers and/or antennas shall either maintain a galvanized steel or concrete finish or, subject to any applicable standards of the FAA, be painted a neutral color so as to reduce visual obtrusiveness.
- .2 At all tower sites, the design of all buildings and related structures shall use materials, colors, textures, screening, and landscaping that will blend the tower facilities to the natural setting and building environment. Any equipment or cabinet that supports telecommunication facilities must be concealed from public view and made compatible with the architecture of the surrounding structures or placed underground. Equipment shelters or cabinets shall be screened from public view by using landscaping or materials and colors consistent with the surrounding backdrop. The shelter or cabinet must be regularly maintained.
- .3 For antennas installed on a structure other than a tower, the antenna and supporting electrical and mechanical ground equipment shall be of a neutral color so as to make the antenna and related equipment visually unobtrusive.

- .4 Towers shall not be artificially lighted, unless required by the FAA or other applicable authority. If lighting is required, the governing authority may review the available lighting alternatives and approve the design that would cause the least disturbance to the surrounding views. The lighting shall be dimmed or changed to red lights from the sunset to sunrise.
- .5 No signage or other identifying markings of a commercial nature shall be permitted upon any tower or alternative tower structure within Euharlee.
- .6 To the extent practical, telecommunication facilities shall not be placed in a direct line of sight with historic or scenic view corridors as designated by the governing body or by any state or federal law or agency.
- .7 Access to the tower site shall be restricted so as to minimize visibility of the access. Where possible, existing roads shall be used. Where no roads exist, access shall follow the existing contours of the land.
- .8 Such other additional requirements as the Administrator shall reasonably require to minimize the visual impact of the site on the surrounding area.

12.6.3 Security Fencing/Anti-Climbing Devices. All towers and supporting equipment shall be enclosed by fencing not less than six (6) feet in height and shall also be equipped with appropriate anti-climbing devices. Fencing shall be of chain-link, wood or other approved alternative.

12.6.4 Landscaping. The following requirements shall govern landscaping surrounding all towers.

- .1 Where adequate vegetation is not present, tower facilities shall be landscaped with a landscaped strip of plant materials which effectively screens the view of the tower compound. Landscaped strips shall be a minimum of ten (10) feet in width and located outside the fenced perimeter of the compound.
- .2 Existing mature tree growth and natural landforms on the site shall be preserved to the maximum extent possible. Where natural vegetation around the perimeter of the site would provide an adequate visual screen, an undisturbed buffer may be utilized. The applicant shall provide a site plan showing existing significant vegetation to be removed, and vegetation to be replanted to replace that lost.
- .3 Landscaping shall be maintained by the provider and shall be subject to periodic review by the Administrator to assure proper maintenance. Failure to maintain landscaping shall be deemed a violation of this article.

Amateur radio towers and antennas, or receive-only antennas, shall not be subject to the provision of this section unless required by the Governing Authority through the Conditional use Permit process.

12.6.5 Maintenance Impacts. Equipment at a transmission facility shall be automated to the greatest extent possible to reduce traffic and congestion. Where the site abuts or has access to a collector or local street, access for maintenance vehicles shall be

exclusively by means of the collector or local street, utilizing existing access to the property on which such facility is to be located, where possible.

- 12.6.6 Review of Tower and Antenna Erection by the Airport Authority. If, upon receipt of an application for the erection of any tower or alternative tower structure governed by this article, the Department deems that the proposed structure may interfere with or affect the use of the airways of the City by the public or interfere with or affect the operation of existing or proposed airport facilities, a copy of the application shall be submitted by the Department to the Cartersville-Bartow County Airport Authority for review and recommendation.
- 12.6.7 Federal Requirements. All towers must meet or exceed current standards and regulations of the FAA, the FCC, and any other agency of the federal government with the authority to regulate towers and antennas. If such standards and regulations are changed, the permittee or the lessee of the tower and antenna governed by this article shall bring such tower and/or antenna into compliance with such revised standards and regulations within six (6) months of the effective date of such standards and regulations unless a more or less stringent compliance schedule is mandated by the controlling federal agency. Failure to bring such tower and/or antenna into compliance with such revised standards and regulations shall be deemed to be a declaration of abandonment of the tower and constitute grounds for the removal of the tower or antenna at the owner's, permittee's, or lessee's expense. Any such removal by the governing authority shall be in the manner provided in the Euharlee Unsafe or Unfit Property Ordinance then in effect.
- 12.6.8 Building Codes: Safety Standards. To ensure the structural integrity of towers, the owner, permittee or subsequent lessee of a tower or alternative tower structure shall ensure that it is maintained in compliance with standards contained in applicable Standard Building Codes and the applicable standards for towers that are published by the Electronic Industries Association, as amended from time to time. If, upon inspection, the Department concludes that a tower fails to comply with all applicable codes and standards, or constitutes a danger to persons or property, then upon receipt of written notice by the owner, permittee or lessee of the tower, said party shall have fifteen (15) days to bring the tower into compliance with such standards. Failure to bring such tower into compliance within fifteen (15) days shall be deemed a declaration of abandonment of the tower and constitute grounds for removal of the tower as provided in the Euharlee Unsafe or Unfit Property Ordinance. Prior to the removal of any tower, the Department may consider detailed plans submitted by the owner, permittee or subsequent lessee for repair of substandard towers, and may grant a reasonable extension of the above-referenced compliance period.
- 12.6.9 Change of Ownership Notification. Upon the transfer of ownership of an interest in any tower, alternative tower structure, or lot upon which such a structure has been erected, the tower permittee shall notify the Department of the transaction in writing within 30 days.

Sec. 12.7 APPLICATION PROCEDURES

- 12.7.1 General Application Requirement. Application for a permit for any telecommunication facility shall be made to the Department by the person,

company or organization that will own and operate the telecommunications facility. An application will not be considered until it is complete. The Administrator is authorized to develop application forms to assist in providing the required information and facilitate the application process. Except for a co-location information submittal under Section 12.7.2 of this article, the following information shall be submitted when applying for any permit required by this article and must be submitted for an application to be considered complete:

- .1 Site plan or plans to scale specifying the location of telecommunications facilities, transmission building and/or other accessory uses, access, parking, fences, landscaped areas, and adjacent land uses. Applicants shall submit both a paper location map and a digitized location map in a format compatible with the GIS software currently utilized by the County Information Services Department.
- .2 Landscaped plan to scale indicating size, spacing and type of plantings required in Section 12.6.4.
- .3 A full description of the environment surrounding the proposed telecommunications facility, including any adjacent residential structures and districts, structures and sites of historic significance, streetscapes or scenic view corridors.
- .4 A description of anticipated maintenance needs for the telecommunications facility, including frequency of service, personnel needs, equipment needs, and traffic, noise or safety impacts of such maintenance.
- .5 Report from a professional qualified engineer licensed in the State of Georgia, or other appropriate qualified industry expert, documenting the following:
 - (a) Tower or antenna type, height, and design;
 - (b) Engineering, economic, and other pertinent factors governing selection of the proposed design;
 - (c) Total anticipated capacity of the telecommunications facility, including numbers and types of antennas which can be accommodated;
 - (d) Evidence of structural integrity of the tower or alternative tower structure;
 - (e) Structural failure characteristics of the telecommunications facility and demonstration that site and setbacks are of adequate size to contain debris;
 - (f) Certification that the antenna(s) and related equipment or appurtenances comply with all current regulations of the FCC, with specific reference to FCC regulations governing non-ionizing electromagnetic radiation (NIER), and that the radio frequency levels

meet the American National Standards Institute (ANSI) guidelines for public safety;

- (g) Certification that the proposed height of the tower is the minimum height necessary for coverage; and
 - (h) A propagation study which documents the proposed location is the only location for the tower that reduces alleged gaps in coverage.
- .6 Identification of the geographic service area for the subject installation, including a map showing the proposed site and the nearest or associated telecommunications facility sites within the network. Describe the distance between the telecommunications facility sites. Describe how this service area fits into and is necessary for the service network (i.e., whether such antenna or tower is needed for coverage or capacity.)
- .7 If the proposed site is zoned C-1, C-N, I-1, R-1 through R-6, RE-1, RE-2, or O/I, applicants must describe why an alternate site zoned A-1, I-2, or M-1 was not proposed by identifying:
- (a) what good faith efforts and measures were taken to secure such an alternate site;
 - (b) why such an alternate site was not technologically, legally or economically feasible and why such efforts were unsuccessful; and
 - (c) how and why the proposed site is essential to meet service demands for the geographic service area.

The Department will review with special care justifications that appeal only to undue expense and/or to undue difficulties in entering into a lease agreement. The Department shall carefully weigh such claims, and the evidence presented in favor of them, against a project's negative impacts at the proposed site.

- .8 The applicant must provide a utilities inventory showing the locations of all water, sewage, drainage and power line easements impacting the proposed tower site.
- .9 The applicant must provide any other information which may be requested by the Department to fully evaluate and review the application and the potential impact of a proposed telecommunications facility.

12.7.2 Tower Co-location Information Submittals. Any person or entity co-locating an antenna or antennas on a tower for which a permit has already been issued shall submit the following information only:

- .1 The name of the person or entity co-locating the antenna.
- .2 The name of the owner of the tower.

- .3 The tower's permit number.
- .4 The location of the tower.
- .5 The remaining structural capacity of the tower.
- .6 Certification that the antenna(s) and related equipment or appurtenances comply with all current regulations of the FCC, with specific reference to FCC regulations governing non-ionizing electromagnetic radiation (NIER), and that the radio frequency levels meet the American National Standards Institute (ANSI) guidelines for public safety.

Sec. 12.8 REMOVAL OF ABANDONED TOWERS AND ANTENNAS

- 12.8.1 Notice of Abandoned Antenna and Structures. The owner or lessee of a tower or antenna shall promptly notify the Department of its intent to abandon or the abandonment of any tower or antenna.
- 12.8.2 Removal of Abandoned Antennas and Towers. Any tower or antenna that is not operated for a continuous period exceeding twelve (12) months shall be considered abandoned, and the owner of such antenna or tower shall remove the structure within ninety (90) days of such abandonment. If said tower or antenna is not removed within said ninety (90) days, the governing authority may, in the manner provided in the Euharlee Unsafe or Unfit Property Ordinance, take such action as may be deemed necessary to remove, or cause to be removed, such antenna or tower at the owner's expense. If there are two or more users of a single tower, then this provision shall not become effective until all users cease utilizing the tower.

Sec. 12.9 APPLICATION AND PERMIT FEES

- 12.9.1 Conditional Use Permit. The fee for an application seeking a conditional use permit to erect a new tower on an alternative tower structure shall be \$3,000.00.
- 12.9.2 Co-Location. There shall be no fee for an application seeking a conditional use permit for co-location on an existing tower or alternative tower structure other than the building permit fee.
- 12.9.3 Building Permit Fees. In addition to the application fees set forth herein, the applicable construction and utility inspection permit fees in effect at the time of the application for the permit shall apply.

ARTICLE XIII

ENFORCEMENT AND BUILDING PERMITS

Sec. 13.1 ZONING ENFORCEMENT OFFICER; APPEALS

The provisions of this Ordinance shall be administered and enforced by the Zoning Administrator. Requests for a variance from the requirements of this Ordinance shall be

heard and decided in accordance with the guidelines set forth in Article XIV. Decisions of the Zoning Administrator may be appealed in accordance with the provisions of Article XIV.

Sec. 13.2 BUILDING PERMIT AND LAND DISTURBANCE PERMIT REQUIRED

It shall be unlawful to commence any land disturbance activity for the construction of any building; to commence construction of any building; to commence the moving or alteration of any building; or to commence the development of land for a use not requiring a building, until all necessary permits for such work have been issued. Building permits shall be required as listed in this Ordinance, and land disturbance permits as required by the *Euharlee Soil Erosion and Sedimentation Control Ordinance*. All land development or construction shall comply with the codes and ordinances in effect in Euharlee at the time the permit is issued.

13.2.1 Land disturbance permits for the development must be displayed prior to beginning any clearing or grading on any lot. All building permits must be displayed prior to beginning any construction. Such permits must be placed on a post or other structure at least three feet off the ground and no more than two feet back from the right-of-way, so as to be easily visible to the inspectors and passers-by. Such permits must be encased in a clear waterproof container to protect them from the elements, and must be legible. The permittee shall be responsible for insuring a clear and legible permit is on display at all times. In the event of damage or loss, a replacement permit shall be immediately obtained and displayed. Failure to comply with this provision shall result in an administrative fine, and the permit shall be revoked until such fine is paid.

13.2.2 All structures erected in Euharlee must comply with the provisions of the applicable Standard Building Codes.

13.2.3 No building permits shall be issued unless the applicant can show all necessary approvals from other departments, including, but not limited to, a water tap permit; a sewer tap or septic tank permit; and a driveway permit. The issuance of a land disturbance permit or recording of a final plat by the Zoning Department does not indicate approval by other necessary departments of the City. Developers proceeding with development under a land disturbance permit prior to securing necessary approvals from other departments are proceeding at their own risk.

13.2.4 No building permit shall be issued to any applicant currently in violation of this Ordinance, or any other Ordinance of Euharlee. No building permit shall issue to any applicant currently subject to a stop work order under this Ordinance, or any other Ordinance of Euharlee.

Sec. 13.3 APPLICATION FOR BUILDING PERMIT

All applications to the Zoning Administrator for building permits shall be accompanied by development plans and a survey, in duplicate, except accessory buildings located in agriculture and residential areas, showing:

13.3.1 the actual dimensions of the lot to be built upon;

13.3.2 the size of the building to be erected;

- 13.3.3 the location of the building on the lot;
- 13.3.4 the location of existing structures on the lot, if any;
- 13.3.5 the number of dwelling units the building is designed to accommodate;
- 13.3.6 the setback lines of buildings on adjoining lots;
- 13.3.7 the layout of off-street parking and loading spaces;
- 13.3.8 a septic permit from the Health Department (if on septic); a sewer tap permit from the Bartow County Water Department if on sewer;
- 13.3.9 a water tap permit from the Bartow County Water Department;
- 13.3.10 a driveway permit from the Department of Transportation if the property fronts on a State Highway or any access is desired to a State Highway, or from the Bartow County Road Department if the property fronts on a County road or any access is desired from a County road;
- 13.3.11 such other information as may be requested for determining whether the provisions of this Ordinance are being observed and complied with, including especially compliance with the street design, warranty, and acceptance criteria;
- 13.3.12 such other information as may be requested by the Zoning Administrator; and
- 13.3.13 certification by the applicant that he or she has complied with all other applicable regulations and ordinances.

Sec. 13.4 CONSTRUCTION PROGRESS

Any building permit issued shall become invalid unless the work authorized by it shall have been commenced within six (6) months of the date of issue or if the work authorized by the permit is suspended or abandoned for a period of one (1) year.

Sec. 13.5 ENFORCEMENT ACTIONS

- 13.5.1 Enforcement of this ordinance may be through criminal prosecution, civil fines, or other civil proceedings. Any person, firm, partnership, corporation or other legal entity who shall do anything prohibited by this Ordinance as the same exists or as it may hereafter be amended or which shall fail to do anything required by this Ordinance as the same exists or as it may hereafter be amended shall be subject to an enforcement action.
 - .1 Representatives of the Zoning Department (including the Building Inspector), the City Engineer, and code enforcement officers shall have the power to conduct such investigations as may reasonably be deemed necessary to assure or compel compliance with the requirements and provisions of this Ordinance, and for this purpose to enter at reasonable times upon any property for the purpose of investigation and inspection, as

permitted by law. Officers and officials may serve inspection warrants or search warrants on probable cause of a violation occurring inside a structure. No warrant shall be required to investigate visible and open violations or uses.

- .2 No person shall obstruct, hamper or interfere with any such representative while in the process of carrying out his or her official duties.

13.5.2 Persons Who May Be Cited. Owners are ultimately responsible for the condition of their property and ensuring that their property and all activity occurring on such property is in compliance with this Ordinance. For any violation, both the owner of the property and/or the individual agent, tenant or invitee of the owner responsible for the violation may be cited, where appropriate. Agents of the owner would include, but not be limited to, developers, builders, contractors, and sub-contractors. Tenants and invitees would include, but not be limited to, any renter, leaseholder, owner of any vehicle or structure on the property, or other person conducting an activity on the property who is not a trespasser. Corporations and companies responsible for the work may be cited in addition or in lieu of or in addition to citations issued to the actual individuals' on-site committing violations.

13.5.3 Daily Violations. Each day during which the violation or failure or refusal to comply continues shall constitute a separate violation, subjecting the offender to a new citation, or other civil or criminal proceeding.

13.5.4 Multiple Violations. Each separate action, omission, or occurrence relating to any specific provision of this Ordinance shall be a separate violation, subjecting the offender to a separate citation. Multiple junk cars count as one violation, but the fee increases as shown in Sec. 13.5.8 below.

13.5.5 Criminal Prosecution. The Zoning Administrator, or designated code enforcement personnel, or other authorized personnel, may issue criminal citations for violations of this ordinance, or violation of any stop-work order.

- .1 Criminal prosecutions for violation of this Ordinance shall be commenced by the completion, signing, and service of a citation by an authorized City official or zoning enforcement officer. No warning need be issued prior to a citation being issued. The original of the citation shall be personally served upon the accused, his or her authorized representative or, if a corporation, an officer of the corporation or its on-site representative or the person or persons in charge of the activity on the property; a copy shall be promptly filed with the municipal court. A stop-work order may be issued in conjunction with a citation.
- .2 Each citation shall state the time and place at which the accused is to appear for trial in municipal court, shall identify the offense with which the accused is charged, shall have an identifying number by which it shall be filed with the Court, shall indicate the identity of the accused and the date of service, and shall be signed by the deputy sheriff or other authorized officer who completes and serves it.

- .3 Any Defendant who fails to appear for trial shall thereafter be arrested on the warrant of the municipal court and be required to post a bond for his or her future appearance.
 - .4 The City Attorney, or another attorney designated by the City, may act as prosecuting attorney for violations of this Ordinance.
 - .5 Fines shall be assessed in accordance with Sec. 13.5.8 below.
- 13.5.6 Civil Fines and Proceedings. In addition to or in lieu of any other remedy, the City may seek injunctive, mandamus or other appropriate relief in superior court to enjoin or prevent a violation of any provision of this Ordinance. Such action may also seek civil fines at the mandatory rates specified in subsection Section 13.5.8 for violation of this Ordinance, and may additionally seek the costs of restitution, and any other costs associated with the action to enjoin or prevent any violation of any provision of this Ordinance. The City shall be entitled to its reasonable attorney's fees and costs for bringing an action in superior court wherein any relief is granted or fine assessed.
- 13.5.7 Stop-Work Orders. Upon notice from the Zoning Administrator, designed code enforcement officers, or other authorized personnel, work on any project that is being done contrary to the provisions of this Ordinance shall be immediately stopped.
- .1 Stop-work orders shall affect all work being done on a project or development (including work done on other lots in the subdivision owned by the same violator). Stop-work orders stop not only the work in violation, but all other work by contractors or sub-contractors on the same property. Only work to remedy the deficiency shall be allowed until the stop-work order is lifted.
 - .2 A stop-work order shall be in writing and shall be given to the owner of the property, his authorized agent or the person or persons in charge of the activity on the property, and shall state the conditions under which work may be resumed. Where an emergency or other exigent circumstances exist, no written notice shall be required, and a verbal stop-work order may be issued, with a written order to be provided within three working days.
 - .3 Stop-work orders may be issued on their own, or in conjunction with criminal citations, or civil proceedings in superior court.
 - .4 Issuance of a stop-work order may be appealed to the Hearing Examiner.
- 13.5.8 Fines. Fines assessed under this Ordinance shall be assessed according to the following mandatory schedule, whether assessed as a civil fine, or assessed as a criminal penalty upon conviction. The maximum permissible fine shall be \$1,000 per offense. In no event shall a fine be reduced below the mandatory minimum, as set forth below. Fines may be increased by mandatory add-ons under State law. As a deterrent to violation, second and subsequent violations by the same offender of any provision of this Ordinance, whether violations of the same or different provisions of this Ordinance as the initial violation, and whether involving the same or different property, shall increase the fine owing. However, repeated citations for the same violation on a second and subsequent days shall not count as

a subsequent violation, but shall rather be assessed at the same rate as the initial violation. Multiple violations on the same day shall also be assessed at the same level. "Per vehicle" additions relate to violations such as junk vehicles, parking violations, and similar violations, where each vehicle is in violation of the Ordinance:

- .1 First Violation: For the first violation of any provision of this Ordinance by any violator (whether an individual or corporation), the fine shall be as follows, unless otherwise noted:

Violation of Article VI: \$250 (plus \$50 per vehicle, if applicable)
Violation of any other Article: \$200

- .2 Second Violation: For the second violation of any provision of this Ordinance (whether the same or different as the first violation) by the same violator (whether an individual or corporation), the fine shall be as follows, unless otherwise noted:

Violation of Article VI: \$500 (plus \$75 per vehicle, if applicable)
Violation of any other Article: \$400

- .3 Third and Subsequent Violations: For the third and subsequent violation of any provision of this Ordinance (whether the same or different as the prior two violations) by the same violator (whether an individual or corporation), the fine shall be as follows, unless otherwise noted

Violation of Article VI: \$750 (plus \$100 per vehicle, if applicable)
Violation of any other Article: \$600

13.5.9 Additional Criminal Penalties. Persons cited criminally are also subject to the other penalties within the jurisdiction of the magistrate court, including incarceration up to 60 days, community service, and probation.

13.5.10 Records. The Zoning Department shall keep records of violators, whether corporate or individual, in order to determine when second or subsequent violations occur.

ARTICLE XIV

VARIANCES; HEARING EXAMINER

Sec. 14.1 ADMINISTRATIVE VARIANCES

If in the judgment of the Zoning Administrator, the application of any particular numeric or qualitative criteria, standard or requirement of this Ordinance causes undue hardship on the applicant, the Zoning Administrator shall be empowered to grant an administrative variance to alter said requirement by up to ten (10) percent, if in doing so, the purposes of the Ordinance are not impaired, and there is not a negative impact on the surrounding uses, properties, or neighbors. In granting an administrative variance, the Zoning Administrator may attach such conditions as the Zoning Administrator may deem advisable so that the

purpose of this Ordinance will be served, public safety and welfare secured and substantial justice done. The Zoning Administrator shall not be authorized to grant a use variance to permit a use in a district in which the use is prohibited.

Sec. 14.2 ESTABLISHMENT AND APPOINTMENT OF HEARING EXAMINER

There is hereby established the post of Hearing Examiner. The City Council shall appoint the Hearing Examiner by Resolution for a fixed term of two years that may be renewed at the discretion of the Mayor and City Council. The Resolution shall set the compensation of the Hearing Examiner that may be on a “per application,” “per meeting” or “hourly” basis, and shall reimburse reasonable expenses. The Hearing Examiner shall be an attorney, land use planner or other person with experience and training suitable for the position. Residency within the City shall not be a requirement. The Hearing Examiner may be removed by the City Council, with or without cause, subject to contractual provisions that may specifically apply to the appointment and removal of a Hearing Examiner. If the Hearing Examiner resigns or vacates the post for other reasons prior to the expiration of the term, the City Council shall appoint a replacement for a new two-year term.

Sec. 14.3 SECRETARY; MEETINGS

The Hearing Examiner shall appoint a secretary who may be an officer or an employee of the City. The City shall have no obligation to pay for the secretary unless already a City employee.

The Hearing Examiner shall have a public meeting at least once each month at the call of the City and at such other times as the City may determine; provided, however, that this provision shall not be construed as requiring the Hearing Examiner to conduct a meeting when he or she has no regular business to transact. All meetings shall be subject to the provisions of the Open Meetings Act.

Sec. 14.4 RECORDS

The Hearing Examiner may adopt rules and by-laws for the transaction of business and shall keep minutes and a record of the resolutions, transactions, findings, determinations, and recommendations, which shall be a public record, kept in the City offices. Evidence submitted in hearings shall be preserved in the City offices, and hearings shall be recorded in some fashion.

Sec. 14.5 POWERS AND DUTIES OF HEARING EXAMINER

The Hearing Examiner shall have the following powers and duties:

14.5.1 Appeals. To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by the Zoning Administrator in the administration, enforcement or interpretation of this Ordinance. Appeals may only be granted after timely filing notice of appeal, a public hearing, and after making written findings of fact.

14.5.2 Variations. The Hearing Examiner is authorized to receive, consider, grant, grant with conditions, or deny applications for variances to the dimensional requirements of this Ordinance. A variance may only be granted after proper application, a

public hearing, and after making written findings of fact that the conditions for variances specified herein have been fulfilled.

Sec. 14.6 APPEALS OF ADMINISTRATIVE DECISIONS

- 14.6.1 Procedure. Appeals to the Hearing Examiner may be taken by any person aggrieved by a decision of the Zoning Administrator in the administration, enforcement, or interpretation of this Ordinance, or by any official of the City. Such appeal shall be taken within thirty (30) days of said decision by filing with the Zoning Administrator a written notice of appeal specifying the grounds thereof. The Zoning Administrator shall forthwith transmit to the Hearing Examiner all documents constituting the record upon which the action appealed from was taken. Public hearing on the appeal shall be held within sixty (60) days of the submission of a complete application for appeal, following the procedures and notice requirements of this Article.
- 14.6.2 Stay. An appeal from a ruling of the Zoning Administrator shall stay all proceedings in furtherance of the action being appealed, unless the Zoning Administrator certifies to the Hearing Examiner after the notice of appeal is filed, that by reason of facts stated, a stay would in his or her opinion impair the purposes of this Ordinance or be inconsistent with the public health, safety or welfare. In such case, proceedings shall not be stayed otherwise than by a stay granted by the Hearing Examiner or by a restraining order issued by a court of record on application, on notice to the Zoning Administrator, and for due cause shown.
- 14.6.3 Decision. The Hearing Examiner may affirm, overrule or modify, in whole or in part, the rulings or decisions of the Zoning Administrator. In exercising this power, the Hearing Examiner may, in conformity with the provisions of this Ordinance, reverse or affirm, wholly or partly, or may modify the order, requirements, decision, or determination, and to that end shall have all the powers of the Zoning Administrator. The Hearing Examiner shall make findings of fact and render a decision in writing within 14 days after the public hearing on the appeal. The Hearing Examiner's Secretary shall notify the applicant, in writing, of its decision within five days after the Hearing Examiner has rendered a decision.

Sec. 14.7 VARIANCE APPLICATIONS

- 14.7.1 Procedure. A property owner or his agent authorized in writing may initiate a request for a variance by filing an application with the Zoning Administrator. The application shall be accompanied by a site plan, drawn to scale, showing the dimensions and arrangement of the proposed development or use, or otherwise indicating the requested variance. The Zoning Administrator may require other drawings or materials essential to an understanding of the proposed use and variance requested and its relationship to the surrounding properties. A fee shall accompany variance applications as established by the City Council by separate ordinance or resolution. Public hearing on the variance application shall be held within sixty (60) days of the submission of a complete variance application, following the procedures and notice requirements of this Article.

- 14.7.2 Decision. The Hearing Examiner may grant, grant with conditions, or deny applications for variances. Variances may only be granted if all applicable conditions and criteria of this Article are satisfied. In granting a variance, the Hearing Examiner may impose such requirements and conditions with respect to the location, construction, maintenance and operation of any use or building, in addition to those expressly set forth herein, as may be deemed necessary the protection of adjacent properties and so that the purpose of this Ordinance will be served, public safety and welfare secured and substantial justice done. The Hearing Examiner shall make findings of fact and render a decision in writing within 14 days after the public hearing on the appeal. The Hearing Examiner's Secretary shall notify the applicant, in writing, of its decision within five days after the Hearing Examiner has rendered a decision.

Sec. 14.8 CONDITIONS AND CRITERIA FOR GRANTING A VARIANCE

The Hearing Examiner may grant a variance only after finding in writing that **all** of the following conditions exist and criteria are met:

- 14.8.1 There are unusual, exceptional or extraordinary circumstances or conditions applying to the property that do not apply generally to other property in the same vicinity or use district, and such conditions are not the result of the owner's or occupant's own actions. Such conditions may include topography, unique natural conditions, surroundings of the subject property, or the size or peculiar shape of the lot;
- 14.8.2 As a result of such unusual circumstances or conditions, there is an unnecessary hardship or practical difficulty that renders it difficult to carry out the provisions of this code;
- 14.8.3 The authorization of such variance will not be materially detrimental to the public welfare or injurious to property in the vicinity or district in which property is located, and the variance will be in harmony with the general purposes and intent of the provisions of this code;
- 14.8.4 The variance approved is the minimum variance that will make possible the legal use of the land, building or structure; and
- 14.8.5 The variance does not permit a use of land, building or structure which is not permitted by right in the land use intensity district in which the proposed development is located.

Sec. 14.9 ADDITIONAL CRITERIA FOR VARIANCES

- 14.9.1 The Hearing Examiner shall not be authorized to grant a density variance or a use variance to permit a use in a district in which the use is prohibited.
- 14.9.2 The Hearing Examiner shall not grant variances when the hardship was created by the property owner or his or her predecessor, and shall not grant hardship variances based on shape or topography for lots of record not existing prior to August 31, 1986.

- 14.9.3 In compliance with Federal law, if the variance is requested by a place of worship or church, in connection with the exercise of religion, the Hearing Examiner shall additionally consider whether the regulation imposes a substantial burden on the exercise of religion, whether the regulation serves a compelling governmental interest, whether the denial is the least restrictive means to serve that interest, or whether the variance can be granted without harming that interest.
- 14.9.4 In compliance with Federal law, if the variance is related to a Group Home for Persons with a Disability, the Hearing Examiner shall additionally consider what reasonable accommodations in this Ordinance can be made to provide a person with a disability equal opportunities to use and enjoy dwellings, while not abrogating the purposes of this Ordinance. Any reasonable accommodation should only relate to the disability.
- 14.9.5 In compliance with State law, if the variance is related to Section 5.16 Stream Buffer / State Waters Buffer, variances will only be considered when a property's shape, topography or other physical conditions existing as of April 30, 2004, prevents land development unless a buffer variance is granted, or if unusual circumstances exist wherein strict adherence to the minimal buffer requirement of that section would create extreme hardship. Variances will not be considered when actions of the property owner have created the conditions of hardship on the property. Variances may be conditioned or limited to serve the purposes of this ordinance, and only the minimum variance necessary shall be given.
- 14.9.6 If the variance is related to Section 5.16 Stream Buffer / State Waters Buffer, the application shall contain the following information, and other information as required by the Zoning Administrator:
- .1 A site map that includes locations of all streams, wetlands, state waters, floodplain boundaries and other natural features, as determined by the field survey;
 - .2 A description of the shape, size, topography, slope, soils, vegetation and other physical characteristics of the property;
 - .3 A detailed site plan that shows the locations of all existing and proposed structures and other impervious cover, the limits of all existing and proposed land disturbance, both inside and outside the buffer and setback. The exact area of the buffer to be affected shall be accurately and clearly indicated;
 - .4 Documentation of unusual hardship should the buffer be maintained;
 - .5 At least one alternative plan, which does not include a buffer or setback intrusion, or an explanation of why such a site plan is not possible;
 - .6 A calculation of the total area and length of the proposed intrusion;
 - .7 A stormwater management site plan, if applicable; and,
 - .8 Proposed mitigation, if any, for the intrusion. If no mitigation is proposed, the request must include an explanation of why none is being proposed.

- 14.9.7 If the variance is related to Section 5.16 Stream Buffer/ State Waters Buffer, the following factors will be considered in determining whether to issue a variance:
- .1 The shape, size, topography, slope, soils, vegetation and other physical characteristics of the property;
 - .2 The locations of all streams and state waters on the property, including along property boundaries;
 - .3 The location and extent of the proposed buffer or setback intrusion;
 - .4 Whether alternative designs are possible which require less intrusion or no intrusion;
 - .5 The long-term and construction water-quality impacts of the proposed variance; and
 - .6 Whether issuance of the variance is at least as protective of natural resources and the environment.

Sec. 14.10 PUBLIC NOTICE

- 14.10.1 Published Notice. Notice of the public hearing for an appeal or variance shall be published in a newspaper of general circulation in Bartow County and Euharlee. The advertisement shall be published at least fifteen (15) days prior to, but not more than forty-five (45) days prior to, the date of said public hearing. The cost of the advertisement shall be borne by the applicant. For variances, the Zoning Administrator shall post, at least fifteen (15) days prior to the public hearing, in a conspicuous place in the public right-of-way fronting the property or on the property for which an application has been submitted, a sign or signs containing information as to the application number, date, time and place of the public hearing.
- 14.10.2 Mailed Notice. The applicant for said appeal or variance shall also give written notice of said appeal or variance and the public hearing thereon to all property owners adjoining the property for which said appeal or variance is made or sought. "Adjoining" shall mean a contiguous boundary (of any distance), or a boundary that would otherwise be contiguous except for any intervening street, road or railroad right-of-way, body of water, or other publicly-owned property. Said notice shall be given to each adjoining property owner by first class mail, with proof of mailing obtained from the post office; proof of receipt is not required. Only owners reflected on the records of the County Tax Assessors' office as of the date of the application shall be entitled to notice. A copy of each letter and proof of mailing shall be provided to the Zoning Administrator before the public hearing. Said notice must be mailed at least fifteen (15) days prior to the date of said scheduled public hearing. Failure to comply with this requirement shall render an application incomplete, but such failure shall not render the decision invalid (e.g. in circumstances where the lack of proper notice was not detected before the vote proceeded). Such notice shall not be required for an appeal if the appeal does not specifically relate to a property or use.

14.10.3 Contents of Notice. The notice required herein to be published and to be served upon adjacent property owners shall contain the following information:

- .1 name and address of the applicant;
- .2 address and location of the property for which the appeal or variance is sought;
- .3 current zoning of the property for which the appeal or variance is sought;
- .4 the variance requested or the subject matter of the appeal and the reason for the requested variance or the appeal; and
- .5 the date, time and place of the public hearing on said requested appeal or variance.

Sec. 14.11 CONDUCT OF PUBLIC HEARING

14.11.1 Sign Up. All persons, other than the applicant, who wish to address the Hearing Examiner at the public hearing concerning an appeal or variance shall first sign up on a form to be provided by the City prior to the commencement of the hearing. The applicant shall be permitted to speak and present any witnesses desired without signing up. Persons who fail to sign up prior to the commencement of the hearing may be permitted to speak at the discretion of the Hearing Examiner.

14.11.2 Presentment. The Secretary or the Hearing Examiner will read the proposed appeal or variance under consideration. The Zoning Administrator, or his or her designee, shall then present the basis of the appeal or variance, along with the pertinent departmental reviews, if any, prior to receiving public input on the proposed appeal or variance. The Zoning Administrator shall be permitted to call witnesses and present any evidence as desired regarding the appeal or variance. Appeals or variances shall be called in the order in which they were filed. Any appeal or variance that has not complied with all notice and other requirements of this Ordinance shall be deemed out of order and shall not be considered at that hearing. It shall be tabled for one month, and if it is still out of order at the next meeting, shall be deemed denied.

14.11.3 Public Comment. The Secretary or the Hearing Examiner shall call each person who has signed up to speak on the appeal or variance then before the Hearing Examiner in the order in which the persons have signed up to speak, except the applicant who will always speak first. Prior to speaking, the speaker will identify himself or herself and state his/her current address. Each speaker shall speak only to the merits of the proposed appeal or variance under consideration and shall address his/her remarks only to the Hearing Examiner. Each speaker shall refrain from personal attacks on any other speaker or the discussion of facts or opinions irrelevant to the proposed appeal under consideration. The Hearing Examiner may limit or refuse a speaker the right to continue, if the speaker, after first being cautioned, continues to violate this subsection.

14.11.4 Time Limits. The applicant or appellant and those in favor of the variance or appeal shall have twenty (20) minutes to speak, total. Those opposed to the

application or appeal shall have twenty (20) minutes to speak, total. The Hearing Examiner may extend these times if desired, or if the matter is especially complex. Each individual speaker shall have no more than three minutes to speak, except the applicant, who may use the entire 20 minutes if desired. The applicant may reserve time for rebuttal.

14.11.5 Proceedings. A hearing on an appeal or variance shall be conducted as a quasi-judicial matter, and with appropriate procedural due process. The applicant shall not contact the Hearing Examiner prior to the hearing. All evidence relating to a matter under consideration shall be presented at the hearing and entered into the record. Any photographs, plats or other evidence shall be marked for easy identification and kept with the documentary record. The Zoning Ordinance and Official Zoning Map, as well as the City's file on the appeal or variance, shall always be a part of the record on any appeal or variance, and need not be submitted by the applicant or opponents as evidence. Both the applicant and the opponents shall have the opportunity to present evidence and witnesses. Cross-examination of opposing witnesses shall be allowed by the Hearing Examiner, but decorum shall be maintained. The Hearing Examiner may require the applicant and opponents to designate one person to conduct any desired cross-examination. Nothing contained herein shall be construed as prohibiting the Hearing Examiner from conducting the hearing in an orderly and decorous manner to assure that the public hearing on the appeal or variance is conducted in a fair and orderly manner.

14.11.6 Table. If necessary, the Hearing Examiner may table the matter or continue the hearing to allow the applicant or opponents more time to gather or prepare evidence or locate witnesses to testify, or for any other appropriate reason as determined by the Hearing Examiner. A matter may be tabled or continued for no more than one month.

14.11.7 Decisions. Decisions shall be rendered as specified in Sec. 14.6 or 14.7, as applicable.

Sec. 14.12 APPEALS TO SUPERIOR COURT

Decisions of the Hearing Examiner on appeals or variances shall be final; there shall be no appeal to the City Council, but the applicant or other person aggrieved by a decision of the Hearing Examiner, including City officials, may appeal by writ of certiorari to the Superior Court filed within 30 days following the procedure of the Georgia Code, Title 5. Appeals of the decision of the Hearing Examiner shall be on a review of the record of the hearing, supplemented only by argument of counsel.

ARTICLE XV

AMENDMENTS

Sec. 15.1 INITIATION OF AMENDMENTS

15.1.1 Applications to amend this Ordinance may be in the form of proposals to amend the text, the future land use map, the official zoning map, or to alter rezoning conditions.

- .1 An application to amend the text of this Ordinance may be initiated by the Planning and Zoning Commission or be submitted to the Planning and Zoning Commission by the City Council or by any person having an interest in the City. An application to amend the future land use map or the official zoning map may be initiated by the Planning and Zoning Commission or be submitted to the Planning and Zoning Commission by the City Council or by any person having an interest in the City.
 - .2 Unless initiated by the City Council or the Planning and Zoning Commission or Zoning Staff, all applications to amend the future land use map or official zoning map must be submitted by the owner of the affected property or the authorized agent of the owner following procedures set forth in Sections 15.2 and 15.3. If submitted by an agent of the owner, such authorization shall be notarized and attached to the application.
 - .3 In the event an application for an amendment to the zoning map has been denied, another rezoning application affecting the same property shall not be submitted nor accepted until twelve (12) months have passed from the date of the final decision by the City Council. In the event an application for an amendment to the future land use map has been denied, another land use map application affecting the same property shall not be submitted nor accepted until twelve (12) months have passed from the date of the final decision by the City Council. The City Council may reduce either 12-month time interval by resolution, to a minimum of six (6) months.
 - .4 An application to alter conditions of rezoning may be submitted at any time after the final decision of the City Council. The applicant must show a change in circumstances or additional information not available to the applicant at the time of the original decision by the City Council to impose the condition. Another application to alter the same condition shall not be submitted more than once every twelve (12) months, such interval to begin on the date of the final decision by the City Council on said application to amend the condition.
 - .5 An application may be withdrawn without prejudice at any time prior to the Planning and Zoning Commission meeting. Withdrawal subsequent to that time shall mean such application may not be resubmitted for consideration for a period of six (6) months, counting from the date of withdrawal to the date of renewed application. Unless withdrawn at a hearing, the withdrawal must be in writing, signed and dated by the applicant.
 - .6 The requirements of Section 15.2 (including limitation as to number accepted) do not apply to any application for amendment initiated by the zoning department staff, the Planning and Zoning Commission or the City Council, and such applications shall only contain such information as is required by the Zoning Administrator.
- 15.1.2 The permitted order in which amendments may be made to the text of this Ordinance, the future land use map, and the official zoning map, respectively, is as follows:

- .1 The text of this Ordinance may be amended without prior or subsequent amendment to the future land use map or the official zoning map.
- .2 The official zoning map may be amended without requesting an amendment to the future land use map if the proposed amendment would permit a use that is permitted by the future land use map.
- .3 If a proposed amendment to the official zoning map would permit a use that is not authorized within the land use category of the subject property as shown on the future land use map, then the applicant should first request an appropriate amendment to the future land use map before applying for the amendment to the official zoning map. Such applications can proceed simultaneously. In the case of simultaneous applications, the Planning and Zoning Commission and City Council may consider the land use application and rezoning application at the same public hearing, but shall consider the land use application first.

15.1.3 The future land use map may be amended regardless of the zoning districts that apply to the subject property.

Sec. 15.2 APPLICATION FOR AMENDMENTS

Each application required by this Ordinance, including without limitation, to amend this Ordinance, the future land use map, or the official zoning map, shall be filed with the Zoning Administrator. The following requirements for information are mandatory, unless the requirement is deleted by the Zoning Administrator. The Zoning Administrator may require additional information to evaluate the application, the suitability of the proposed use, and other aspects of any proposed development, and any such information shall be provided.

A maximum of ten (10) applications shall be accepted by the Zoning Administrator for consideration at any public hearing before the Planning and Zoning Commission and/or the City Council. Zoning numbers will be issued to applicants, in order of request, starting on the first day applications are accepted. A schedule may be obtained from the Zoning Office. All applications must be complete and submitted by the end of the business day on the date the zoning number is issued. Incomplete applications will not be accepted, except with permission of the Zoning Administrator. Furthermore, applicants not filing a complete application on the date the zoning number is issued will forfeit their assigned number and will have to request a new number when their application is complete and ready for submission.

Applications shall be submitted in compliance with the following requirements:

15.2.1 Text amendment applications shall include the following minimum information, unless the requirement(s) listed below are waived by the Zoning Administrator. Additional information may also be requested by the Zoning Administrator:

- .1 name and current address of the applicant;
- .2 current provisions of the text to be affected by the amendment;
- .3 proposed wording of text change; and

.4 reason for the amendment request.

15.2.2 Future land use map amendment applications shall include the following minimum information, unless the requirement(s) listed below are waived by the Zoning Administrator. Additional information may also be requested by the Zoning Administrator:

- .1 An identification of the geographic area in the city that is to have a revised land use under the applicant's proposal;
- .2 All permitted land uses for the identified area under the existing future land use map;
- .3 All changes to existing land use designations that are proposed by the application;
- .4 All land uses immediately adjacent to the subject property under the existing future land use plan;
- .5 All reasons for the amendment application;
- .6 Names and addresses of the owners of the land affected by the proposed amendment and their agents, if any, authorized to apply for an amendment; and
- .7 An initiating party shall also file any other information or supporting materials that are required by the City Council, Planning and Zoning Commission, or Zoning Administrator.

15.2.3 Official zoning map amendment applications shall include the following minimum information, unless the requirement(s) listed below are waived by the Zoning Administrator. Additional information may also be requested by the Zoning Administrator:

- .1 A tax parcel card from the Bartow County Tax Assessor identifying the parcel to be rezoned, or the parent parcel of the parcel to be rezoned, if a split or subdivision is occurring;
- .2 One (1) copy of a plat, drawn to scale, showing north arrow, land lot and district, the dimensions, acreage and location of the tract prepared by an architect, engineer, landscape architect or land surveyor whose state registration is current and valid. The preparer's seal shall be affixed to the plat;
- .3 The present and proposed zoning district for the tract;
- .4 Existing and intermediate regional floodplain and structures, as shown on the Federal Emergency Management Agency FIRM rate maps for Euharlee;
- .5 The names and addresses of the owners of the land and their agents, if any;

- .6 The names and addresses of all adjoining property owners. In determining the adjoining property owners, road, street or railroad rights-of-way shall be disregarded;
- .7 No application for the rezoning of any property for a residential subdivision shall be accepted for filing unless the application is accompanied by a letter from the local government that will supply water to the property stating that an adequate public water supply is available to the property;
- .8 On any rezoning of three or more acres to be subdivided into a residential subdivision, a soil survey prepared by a Soil Scientist, registered in the State of Georgia, shall be submitted prior to approval, unless the property is served by sewer, or unless all lots in the subdivision are three acres or larger in size;
- .9 A deed to the property containing the legal description; and
- .10 Such other and additional information as may be requested by the Zoning Administrator.

15.2.4 An application shall be submitted pursuant to the administrative schedule set by the Zoning Administrator, sufficiently early to allow staff investigation, advertising, and other preparatory work. Application fees for an application to amend this Ordinance, the official zoning map, or the future land use plan shall be established by the City Council and made available by the Zoning Administrator. A fee shall not be charged for applications initiated by the Zoning Administrator, City Council or Planning and Zoning Commission.

15.2.5 With respect to amendments to the official zoning map, an applicant may file site plans, renderings, construction specifications, written development restrictions and other conditions which the applicant proposes as binding conditions upon the development and use of the property involved in the application; provided, however, that such conditions or alterations or changes thereto shall be filed with the Zoning Administrator at least seven (7) days prior to the public hearing before the Planning and Zoning Commission. If such conditions or alterations or changes thereto are proposed by an applicant and have not been filed as required by this paragraph, the City Council, at the time of the public hearing on the application, may defer any action on such application to a specific meeting date which will permit the Planning and Zoning Commission to conduct another hearing to consider the applicant's proposal prior to consideration of the application by the City Council. At the hearing in which the deferral is granted, the City Council shall specify the date of the hearing before the Planning and Zoning Commission and the subsequent hearing before the City Council, and this action shall constitute public notice of such hearings and no additional notices shall be required prior to the hearings so scheduled by the City Council. The date designated for action on the application shall be set at a time which will allow the applicant to comply with the filing requirements of this paragraph.

Sec. 15.3 PUBLIC NOTIFICATION

- 15.3.1 Legal Notice. Due notice of the public hearings pursuant to this Article shall be published in the newspaper of general circulation within Bartow County once a week for two (2) consecutive weeks, provided that at least one notice shall appear in the newspaper in which are carried the legal advertisements of the City by advertising the application and date, time, place and purpose of the public hearings at least fifteen (15) days prior to the date of the scheduled hearing of the Euharlee City Council but not more than forty-five (45) days prior to the date of the first scheduled hearing conducted by the City Council. Furthermore, at least one notice must appear at least three days prior to the hearing of the Planning Commission. If the application is to amend the future land use map, the notice shall include location, current land use category and proposed land use category. However, if the application is for amendment to the official zoning map, and is initiated by a party other than the City, then the notice shall also include the location of the property, the present zoning district of the property, and the proposed zoning district of the property. The cost of the advertisement shall be borne by the applicant. The notice shall also state, "Notice is hereby given that the City Council has the power to impose a different zoning classification from the classification requested, and impose or delete zoning conditions that may change the application considerably."
- 15.3.2 Signs Posted. The Zoning Administrator shall post, at least fifteen (15) days prior to the City Council's public hearing and at least three days prior to the Planning and Zoning Commission's hearing, in a conspicuous place in the public right-of-way fronting the property or on the property for which an application has been submitted, a sign or signs containing information as to the application and date, time and place of the public hearing.
- 15.3.3 Letters to Property Owners. The applicant shall notify each owner of property adjoining the property for which the amendment (other than a text amendment) is sought by mailing to each property owner a letter by first class mail. The applicant shall provide a Certificate of Mailing, or a Certified Mail receipt (Return Receipt not required), as proof of mailing of each letter. Only owners reflected on the records of the tax assessors as of the date of the application shall be entitled to notice. In determining the adjoining property owners, road, street or railroad rights-of-way shall be disregarded. The form letter provided by the City shall be used, or a letter conveying substantially the same information. A copy of the proof of mailing for each recipient shall be provided to the Zoning Administrator before the public hearing. Said notice must be mailed at least fifteen (15) days prior to the date of said scheduled public hearing before the City Council and at least three days prior to the Planning and Zoning Commission public hearing. Failure to comply with this requirement shall render an application incomplete, but such failure shall not render the decision invalid (e.g., in circumstances where the lack of proper notice was not detected before the vote proceeded).
- 15.3.4 The provisions of Sections 15.3.2 and 15.3.3 shall not apply if the application is initiated by the zoning department staff, the Planning and Zoning Commission or the City Council.

Sec. 15.4 PLANNING AND ZONING COMMISSION ACTION

15.4.1 Establishment of Planning and Zoning Commission. There is hereby established the Planning and Zoning Commission of Euharlee which shall consist of five (5) members appointed by the City Council for staggered terms of three (3) years. Upon initial creation of the Planning and Zoning Commission, two members shall be appointed for one-year terms, two members for two-year terms and one member for a three-year term. Upon the expiration of the initial term, each reappointment shall be for full three-year terms.

Members may be paid for their monthly meeting time and reimbursed for actual expenses incurred while representing the Commission with approval from the City Council. Appointments shall be made by Resolution of the City Council. Any vacancy in the membership of the Commission shall be filled for the unexpired term in the same manner as the initial appointment. Members serve at the pleasure of the City Council and may be removed by the City Council at any time by Resolution, with or without cause.

The Commission may adopt such by-laws as it deems necessary to provide for the orderly conduct of its business.

- .1 The Commission shall hold an annual meeting to review the activities of the previous year and to elect officers. The Annual Meeting will be held at the regularly scheduled meeting in September of each year which constitutes the beginning of the Commission year.
- .2 The regular meeting schedule for the coming Commission year shall also be determined at the annual meeting.
- .3 The Commission shall have nomination of officers for Chairman, Vice-Chairman and Secretary either by ballot or show of hands.
- .4 Vacancies in the offices of Chair and Vice-Chair of the Commission may be filled at any regular monthly meeting. The nomination and election procedures shall be as set forth above with the newly elected officer serving until the expiration of the previous vacant term.

15.4.2 The Planning and Zoning Commission shall hold a public hearing on each application for an amendment pursuant to this Article in accordance with a schedule adopted by the Commission. As to each application, the Planning and Zoning Commission shall make a recommendation for approval, approval with conditions, or denial. A tie vote on any motion shall equate to denial. The Planning and Zoning Commission may also table the application one time for the presentation of more information.

- .1 A written report of the Planning and Zoning Commission's recommendation shall be submitted to the Zoning Administrator, or his or her designee, and shall be a public record. The Planning and Zoning Commission's action may recommend amendments to the applicant's request which would reduce the land area for which the application is made, change the district requested and recommend conditions of rezoning which may be deemed advisable so that

the purpose of this Ordinance will, if applicable, be served, and health, public safety and general welfare secured.

- .2 Proposed zoning decisions shall be called in the order determined by the Zoning Administrator. If an application is not complete, or all requirements of this Ordinance have not been complied with, the application is out of order and will not be called at that meeting. It shall be tabled for one month. If the application is still incomplete or out of order at the next meeting, it shall be deemed withdrawn. The applicant shall have to wait six months to reapply.

15.4.3 Conduct of hearing.

- .1 All persons who wish to address the Planning and Zoning Commission at a hearing on the proposed amendment under consideration by the Planning and Zoning Commission shall first sign up on a form to be provided by the City prior to the commencement of the hearing. The Secretary will read the proposed amendments under consideration in the order determined by the Zoning Administrator. The Zoning Administrator, or his or her designee, shall then present the amendment, along with the pertinent departmental reviews, if any, prior to receiving public input on the proposed amendment. The Secretary will then call each person who has signed up to speak on the amendment in the order in which the persons have signed up to speak, except the applicant who will always speak first. Prior to speaking, the speaker will identify himself or herself and state his or her current address. Only those persons who signed up to speak prior to the commencement of the hearing shall be entitled to speak, unless a majority of the Commission, in its discretion, allows the person to speak to the amendment, notwithstanding the failure of the person to sign up prior to the hearing.
- .2 Each speaker shall be allowed five (5) minutes to address the Planning and Zoning Commission concerning the amendment then under consideration, unless the Planning and Zoning Commission, by two-thirds vote of the members present, votes to allow additional time for a particular speaker to address the Commission on said proposed amendment. The applicant shall have a minimum of 10 minutes for his or her presentation (including all related witnesses or experts). The applicant may initially use all of the time allotted to him to speak, or he may speak and reserve a portion of his or her allotted time for rebuttal. Opponents are not allowed rebuttal or a second opportunity to speak, unless specifically granted by two-thirds vote of the Commission. In all circumstances, the proponent(s) and opponent(s) of each amendment shall have no less than ten (10) minutes per side for presentation of data, evidence, and opinion thereon; if there is only one applicant or opponent, such person shall have the full 10 minutes if desired. One member of the Planning and Zoning Commission shall be designated as the time keeper to record the time expended by each speaker.
- .3 Each speaker shall speak only to the merits of the proposed amendment under consideration and shall address his or her remarks only to the members of the Planning and Zoning Commission. Each speaker shall refrain from personal attacks on any other speaker or the discussion of facts or opinions irrelevant to the proposed amendment under consideration. The chair may

limit or refuse a speaker the right to continue, if the speaker, after first being cautioned, continues to violate this subsection.

- .4 Nothing contained herein shall be construed as prohibiting the chair from conducting the hearing in an orderly and decorous manner to assure that the public hearing on a proposed amendment is conducted in a fair and orderly manner.
- .5 These procedures shall be available in writing at each hearing.

Sec. 15.5 CITY COUNCIL'S PUBLIC HEARING

15.5.1 Before taking action on a proposed amendment and after receipt of the Planning and Zoning Commission recommendations, the City Council shall hold a public hearing on the proposed amendment made pursuant to this Article. At the public hearing, the City Council shall review the analysis submitted by the initiating party, and the recommendation prepared by the Planning and Zoning Commission. So that the purpose of this Ordinance will be served, health, public safety and general welfare secured, the City Council may approve or deny the application, reduce the land area for which the application is made, change the district or land use category requested, or add or delete conditions of the application. **The City Council shall have the power to impose a different zoning classification from the classification requested, and impose any zoning conditions which ameliorate the impact of the zoning, or serve other lawful purposes of this Ordinance.** An action by the City Council to defer the application shall include a statement of the date and time of the next meeting at which the application will be considered, which statement shall constitute public notice of the hearing on the application; and no further notice, such as that required by Section 15.3, is required.

15.5.2 Conduct of the hearing.

- .1 All persons who wish to address the City Council at a hearing concerning a proposed zoning decision under consideration by the City Council shall first sign up on a form to be provided by the City prior to the commencement of the hearing.
- .2 The Zoning Administrator or his or her designee will read the proposed zoning decision under consideration and summarize the departmental reviews pertaining thereto prior to receiving public input on said proposed zoning decision. Proposed zoning decisions shall be called in the order determined by the Zoning Administrator. If an application is not complete, or all requirements of this Ordinance have not been complied with, the application is out of order and will not be called at that meeting. It shall be tabled for one month. If the application is still incomplete or out of order at the next meeting, it shall be deemed withdrawn. The applicant shall have to wait six months to reapply.
- .3 The Zoning Administrator or his or her designee shall call each person who has signed up to speak on the zoning decision in the order in which the persons have signed up to speak, except the applicant who will always speak first. Prior to speaking, the speaker will identify himself or herself and state

his or her current address. Only those persons who signed up to speak prior to the commencement of the hearing shall be entitled to speak, unless the City Council, in its discretion, allows the person to speak to the zoning decision, notwithstanding the failure of the person to sign up prior to the hearing.

- .4 Each speaker shall be allowed five (5) minutes to address the City Council concerning the zoning decision then under consideration, unless the City Council allows additional time for a particular speaker to address the City Council on said proposed zoning decision. The applicant shall have a minimum of 10 minutes for his or her presentation (including all related witnesses or experts). The applicant may initially use all of the time allotted to him to speak, or he may speak and reserve a portion of his or her allotted time for rebuttal. Opponents are not allowed rebuttal or a second opportunity to speak, unless specifically granted by the City Council. In all circumstances, the proponent(s) and opponent(s) of each amendment shall have no less than ten (10) minutes per side for presentation of data, evidence, and opinion thereon; if there is only one applicant or opponent, such person shall have the full 10 minutes if desired. A member of the City Council's staff shall be designated as the time keeper to record the time expended by each speaker.
- .5 Each speaker shall speak only to the merits of the proposed zoning decision under consideration and shall address his or her remarks only to the City Council. Each speaker shall refrain from personal attacks on any other speaker or the discussion of facts or opinions irrelevant to the proposed zoning decision under consideration. The City Council may limit or refuse a speaker the right to continue, if the speaker, after first being cautioned, continues to violate this subsection.
- .6 Nothing contained herein shall be construed as prohibiting the City Council from conducting the hearing in an orderly and decorous manner to assure that the public hearing on a proposed zoning decision is conducted in a fair and orderly manner.
- .7 These procedures shall be available in writing at all hearings.

Sec. 15.6 STANDARDS FOR GOVERNING THE EXERCISE OF ZONING POWER

The following standards governing the exercise of the zoning power are adopted in accordance with O.C.G.A. § 36-66-5(b):

- 15.6.1 The existing land uses and zoning classification of nearby property;
- 15.6.2 The suitability of the subject property for the zoned purposes;
- 15.6.3 The extent to which the property values of the subject property are diminished by the particular zoning restrictions;
- 15.6.4 The extent to which the diminution of property values of the subject property promotes the health, safety, morals or general welfare of the public;

- 15.6.5 The relative gain to the public, as compared to the hardship imposed upon the individual property owner;
- 15.6.6 Whether the subject property has a reasonable economic use as currently zoned;
- 15.6.7 The length of time the property has been vacant as zoned considered in the context of land development in the area in the vicinity of the property;
- 15.6.8 Whether the proposed zoning will be a use that is suitable in view of the use and development of adjacent and nearby property;
- 15.6.9 Whether the proposed zoning will adversely affect the existing use or usability of adjacent or nearby property;
- 15.6.10 Whether the zoning proposal is in conformity with the policies and intent of the land use plan;
- 15.6.11 Whether the zoning proposal will result in a use which will or could cause an excessive or burdensome use of existing streets, transportation facilities, utilities, or schools; and
- 15.6.12 Whether there are other existing or changing conditions affecting the use and development of the property which give supporting grounds for either approval or disapproval of the zoning proposal.

Sec. 15.7 APPEALS TO SUPERIOR COURT

Appeals of the grant or denial of a rezoning decision shall be taken within thirty (30) days of the decision by filing an appeal in superior court, pursuant to the provisions in Title 5 of the Georgia Code. Such appeals shall be de novo.

Sec. 15.8 PERIODIC REVIEW OF ZONING ORDINANCE

From time to time, but at intervals of not more than four years and at the request of the Zoning Administrator, the Planning and Zoning Commission shall re-examine the provisions of this Ordinance and the location of district boundary lines and shall submit a report to the City recommending such changes or amendments, if any, which may be desirable in the interest of public safety, health, convenience, necessity or general welfare.

ARTICLE XVI

CONDITIONAL USE PERMITS

Sec. 16.1 STANDARDS FOR GRANTING

Any use which may be authorized by a Conditional Use Permit may be approved by the Euharlee City Council only if:

- 16.1.1 A proper application has been filed in accordance with the requirements of the Euharlee City Council;

- 16.1.2 A recommendation has been received from the Planning and Zoning Commission in accordance with the provisions of Article XV;
- 16.1.3 The applicant is in compliance with the particular conditions for the proposed conditional use that are required by this Ordinance;
- 16.1.4 The applicant is in compliance with conditions imposed by the Euharlee City Council for the purpose of reducing the harmful effects of the use on surrounding uses and assuring compatibility with surrounding uses; and
- 16.1.5 The Euharlee City Council determines that the benefits of and need for the proposed conditional use are greater than any possible depreciating effects and damages to the neighboring properties.
- 16.1.6 In compliance with Federal law, if the conditional use is requested by a place of worship or church, in connection with the exercise of religion, the Planning and Zoning Commission and City Council shall additionally consider whether the regulation imposes a substantial burden on the exercise of religion, whether the regulation serves a compelling governmental interest, whether the denial is the least restrictive means to serve that interest, or whether the conditional use can be granted without harming that interest.
- 16.1.7 If the conditional use is related to a Group Home for Persons with a Disability, the Board shall additionally consider what reasonable accommodations in this Ordinance can be made to provide persons with a disability equal opportunities to use and enjoy dwellings, while not abrogating the purposes of this Ordinance. Any reasonable accommodation should only relate to the disability.

Sec. 16.2 WRITTEN DECISION

The City Council shall consider all evidence in the record in making its decision, which shall be reduced to writing within 30 days after the hearing. This Ordinance is automatically a part of the record in each case, as is the entire application file. The City Council may call upon its staff or the City Attorney for assistance in reducing the decision to writing, and shall refer to evidence in the record, the Ordinance, and other applicable law as a basis for its decision.

Sec. 16.3 HEARING PROCEDURES

Hearings on conditional use permits shall follow the procedures of hearings on rezoning amendments, except as modified below:

- 16.3.1 The applicant shall have up to 15 minutes to present his or her case, and submit all evidence and witnesses for the record, and opponents shall have equal opportunity to present their case. The applicant can request additional time if voluminous evidence is to be submitted, not to exceed one hour. Equal time shall be allowed to the opponent. The City, as represented by the Zoning Administrator or his or her designee, or the City Attorney or his or her designee, shall have the right and equal time to present any witnesses and evidence into the record it chooses.
- 16.3.2 The applicant or his or her attorney shall have a right to cross-examine any witnesses in opposition to the application, and one representative or attorney of the

opponents shall have a similar opportunity to cross-examine the witnesses. The City shall also have a similar opportunity to cross-examine all witnesses.

16.3.3 The City Council may question any witness, or request further information and table a decision for one month to await additional information or evidence. The City Council may also request expert reports or studies relating to the request, and shall similarly table the application in such cases. An application may only be tabled one time without the consent of the applicant.

16.3.4 The hearing shall be recorded in some fashion and that recording preserved for 60 days after the decision, or during the pendency of any appeal that is filed in superior court.

Sec. 16.4 APPEALS TO SUPERIOR COURT

Appeals of any decision to deny or grant a conditional use permit shall be filed within thirty (30) days by filing an appeal to superior court, pursuant to the provisions of Title 5 of the Georgia Code. Such appeal shall be de novo.

Sec. 16.5 REAPPLICATION

An application for a conditional use which has been denied shall not be resubmitted for a period of twelve (12) months.

Sec. 16.6 SIMULTANEOUS APPLICATION

An application for a conditional use may be submitted simultaneously with an application for a rezoning, or with an application for a land use plan and rezoning. Each application shall be voted on separately.

ARTICLE XVII

LEGAL STATUS PROVISIONS

Sec. 17.1 CONFLICT WITH OTHER REGULATIONS

Whenever the regulations of this Ordinance require a greater width or size of yards, courts, or other open spaces, or require a lower height of buildings or smaller number of stories, or require a greater percentage of lot to be left unoccupied, or impose other more restrictive standards than are required in or under any other ordinance or statute, the regulations and requirements of this Ordinance shall govern.

Whenever the provisions of any other statute or ordinance require more restrictive standards than are required by this Ordinance, the provisions of such statute or ordinance shall govern.

Sec. 17.2 SEPARABILITY

Should any section or provision of this Ordinance be declared by the courts to be unconstitutional or invalid, such declaration shall not affect the validity of the Ordinance as a whole or any part thereof other than the part so declared to be unconstitutional or invalid.

Sec. 17.3 REPEALER

This Ordinance repeals and replaces the Zoning Ordinance existing immediately prior to its adoption. In the event that this Ordinance is struck down in its entirety as void, unconstitutional or invalid, including therefore this provision, that prior ordinance shall be considered to not have been repealed.

Sec. 17.4 EFFECTIVE DATE

This Ordinance shall take effect and be in force from and after its adoption, the public welfare of Euharlee demanding.

ADOPTED THE 1ST DAY OF SEPTEMBER, 2015.

EUHARLEE, GEORGIA

Mayor of Euharlee

The foregoing is a true and correct copy of the Zoning Ordinance of the City of Euharlee, Georgia, as adopted September 1, 2015.

ATTEST:

Clerk of Euharlee