

AL
IN

ORDINANCE

1994-2

AN ORDINANCE AMENDING THE ZONING ORDINANCE OF THE CITY OF EUFAULA, ORDINANCE 1986-26, BY PROVIDING FOR AN ORDINANCE PERTAINING TO LANDSCAPING, LANDSCAPING MAINTENANCE, AND PROTECTION OF TREES.

WHEREAS, Code of Alabama, 1975, Section 11-52-1, et. seq. empowers the City of Eufaula to enact a zoning ordinance and amendments thereto, and

WHEREAS, the City Council deems it necessary, for the purpose of promoting the health, safety, and general welfare of the City of Eufaula to enact an ordinance providing for the forestation of the city, the protection of trees and the maintenance of existing trees, and

WHEREAS, the Planning Commission has given considerable deliberation to a provision for an ordinance pertaining to landscaping, landscaping maintenance, and the protection of trees that enhance the environment, by providing shade, natural cooling, the control of soil erosion and storm water runoff, the buffering of poise and glare, and contributing to the property values, and

WHEREAS, the City Council has given due public notice of hearings relating to this tree and landscape ordinance, and has held such public hearing, and

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

NOW, THEREFORE, THE PUBLIC REQUIRING IT, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EUFAULA, ALABAMA that the following Article Six, General and Supplemental District -Regulations, of the Zoning Ordinance of the City of Eufaula, Alabama, Ordinance 1986-26, as amended, is hereby further amended and supplemented as follows:

SECTION 1: ARTICLE SIX IS HEREBY AMENDED TO READ
As FOLLOWS:

SECTION 6.61 MINIMUM LANDSCAPE REQUIREMENTS

1). PURPOSE

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

2). APPLICATION OF SECTION:

- a. Landscaping requirements as set forth in this Tree and Landscape Ordinance shall become applicable to each building site at the time an application for a building permit is made in commercial, industrial, and multi-family zones; and to each commercial site where the owner/developer undertakes a project that increases the square footage of the building by a cumulative total of fifty (50%) percent or more.
- b. The City of Bufaula Horticulturist will be available to assist in the design phases of the project and to review initial and final plans.
- c. All landscape installation must be completed before the development is opened to the public.. The City Horticulturist must be notified to give compliance or noncompliance to landscaped areas before opening. The City Horticulturist must give decision of compliance or noncompliance within seven (7) working days.

3). DEFINITIONS

- a. Native Tree - A tree that has a DBH of at least 12 inches and is an oak, hickory, sycamore, pine, yellow poplar, sweet gum, elm, hackberry or sugarberry, magnolia, cypress, or a newly planted tree on a development site.
- b. Small Shade Tree - mediumsize tree of thirty (30) to forty (40) feet at mature height.

- c. Large Shade Tree - large trees that grow over small shade. Have a height of fifty (50) feet or more at mature height.
 - d. DBH - diameter at breast height. This is the measurement of the width of trunk 4 1/2 feet above existing grade.
 - e. Drip Line - the circumference of the tree's natural unaltered canopy extended vertically to the ground.
 - f. Barrier - a physical structure limiting access to a protected area.
 - g. Public Tree - a tree located on city property or any' tree owned-by the City of Eufaula, Alabama. This includes city rights-of-way.
 - h. Caliper - This is the measurement of the width of the trunk 6" above existing grade.
 - i. Tree Credits - means of crediting existing trees for trees that would have to be planted, if existing trees could not be saved and protected as stated in this ordinance.
 - j. Removing a Tree - to relocate, cut down, poison, or in any other manner destroy or cause to be destroyed, a tree as defined in this Ordinance.
 - k. Prompt Replacement - to replace within a three (3)week time period.
- 4). LANDSCAPE PLAN APPROVAL

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

- a. Date, scale, north arrow, title and name of owner.
- b. Approximate location of existing boundary lines and dimensions of building site.
- c. Location, species, size of existing trees and other vegetation applicant proposes to remain on site and have made part of the landscape development. This does not apply to masses of trees outside of the construction area.

- d. The approximate center line of existing water-courses; the approximate location of significant drainage features; and the location and size of existing and proposed streets and alleys, existing and proposed utility easements on or adjacent to the building site, and existing and proposed sidewalks adjacent to streets.
- e. The location and size of proposed landscaped areas, in square feet.
- f. The location, number, size and name of proposed landscape material.
- g. Statistics verifying that the minimum percentage of landscaping required under this Section will be met.
- h. The locations, species and DBH of existing native trees indicating those to be retained, and those native trees to be removed, and whether they are to be counted as part of the landscaping requirements. The location and dimensions of the proposed landscape areas within the parking area(s) including a description and location of new trees and plant materials to be placed within the landscape area.
- i. An indication, using written or graphic information, of how the applicant plans to protect existing trees and other vegetation which are proposed to be retained from damage during construction.
- j. The proposed irrigation type -and-design, if required..
- k. Installation process for all landscaped material.
- l. Certification that the landscape plan has been prepared or reviewed by one of the following: a registered landscape architect, professional engineer, architect, landscape designers, full time builder designer, a qualified nursery man, the County Agent, or any Governmental Agency with horticulture experience, and that it satisfies all purposes, objectives and requirements of this Section.
- m. Flagging and barrier system as covered in Section 5.(h).
- n. Permanent utility facility locations.

5). **LANDSCAPING REQUIREMENTS:**

- a. Landscaping Percentage Requirements. With the exception of industrial sites, any building site meeting the requirements of this section shall be landscaped. Landscaping materials shall cover twelve (12) percent of the total building site as determined first by calculating the square footage of the unimproved site, then subtracting therefrom the total square footage of the building area which is defined as the total square footage of all structures under roof. At least 60% of the landscape requirements shall be located in the front set back defined as the area between the property line and the building, wall(s) facing the public right-of-way. If the application of the percentage creates a fraction;-.the result as expressed in numbers shall be rounded off to the next highest whole number.

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

With the exception of building'sites where the developer increases the square_footage of .the building by fifty (50) percent **or more, the developer/owner must reserve the first twenty (20) feet of the front yard setback requirement of the zoning district for a green space where at least one native tree shall be planted for every thirty feet of road frontage.**

Planted trees must have a 2 - 2 1/2" **caliper and a warranty for at least two (2) years.** All planted trees immediately become native trees. After the application of credits the City Horticulturist may waive any number of trees required if inappropriate for site. If waived, these trees shall then be donated to the Eufaula Tree Commission to be planted as public trees.

Industrial sites shall be required to be landscaped along the front perimeter only. If the site fronts along two streets, then along both intersecting streets. All other requirements of this Tree and Landscape Ordinance shall apply to industrial sites.

b. PARKING LOT REQUIREMENTS:

Parking lot landscaping shall be provided in parking lot use areas having uncovered parking at street level. Such landscaping shall be provided in such a manner as to break up the expense of paving, facilitate the safe circulation of pedestrian and vehicular traffic, and provide shade valuable for pedestrians and/or vehicles. A ratio of one large shade tree for every fifteen (15) parking spaces shall be required.

c. SITE VISIBILITY:

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

d. SPACING:

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

e. INSTALLATION:

All plant material shall be installed in a sound manner and in accordance with the landscape plan. This installation process shall be included on the landscape plan to be approved by the city horticulturist.

f. MAINTENANCE:

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

g. **WATER SUPPLY:**

All landscaped areas shall be provided with an adequate and appropriate water supply. This may include one or more of the following: hose bibs, automatic or manual irrigation, and/or any other appropriate method of supplying water to the landscaped areas.

h. **PROTECTION OF LANDSCAPED AREAS:**

Landscaped areas are to be protected by treegrates-, concrete curbs, wheel stops, continuous border plants of hedgerows, railroad ties or other suitable barriers. This speculation should be clearly marked in landscape plan.

6) - CREDITS TOWARDS TREES

Credit can be taken for a tree if the tree meets native tree specifications and if the tree is in good, vigorous, healthy condition. These tree credits can go toward landscape requirements, however, the front setback must contain one native type tree for every thirty (30) feet of frontage. **Credit will not be allowed if proper protection for the credited tree has not been maintained. If the credited tree dies or fails to thrive, the owner must replace the amount of credited trees lost. Tree equivalents shall be as follows:**

SIZE OF EXISTING TREE	TREE EQUIVALENCE OR TREES NOT REQUIRED TO PLANT
6" Caliper	1 Tree
12" Caliper	2 Trees
18" Caliper	3 Trees
24" Caliper	4 Trees

30" Caliper	5 Trees
36" Caliper	6 Trees
42" Caliper	7 Trees

7). TREE PROTECTION DURING CONSTRUCTION

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

Whenever possible, a tree or group of trees that are being preserved must have a barrier constructed to the dripline of the tree or group of trees, given the specific site considerations.

SECTION 6.62 TREE PROTECTION REQUIREMENTS

1). APPLICATION OF SECTION 6.62

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

2). PERMIT

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

a. TIME OF PERMIT.

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

b. PERMIT PROCEDURE.

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

c. **CRITERIA FOR ISSUANCE OF TREE REMOVAL PERMIT.**

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

d. **BASIS FOR DENIAL OF PERMIT.**

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

3). **REMOVAL OF PUBLIC TREES:**

No trees shall be removed from public rights of way without consent of city horticulturist. This shall not apply to trees with a DBH of 4 1/2" or less. Any other trees must be made known to city horticulturist for his/her permission to take down.

4) . **PENALTIES:**

Any person, firm or corporation violating or failing to comply with this ordinance shall be subject to a fine up to one hundred dollars (\$100) per day per violation for each day said violation remains uncorrected. Proceeds of fines shall be earmarked for the buying and planting of plants in the City of Eufaula. Enforcement of this ordinance shall be by Issuance of Complaint.

5). **INTERFERENCE WITH THE CITY HORTICULTURIST:**

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

6) - NONAPPLICABILITY OF ORDINANCE TO LANDS AND RIGHTS USED FOR FACILITIES OF PUBLIC UTILITIES:

Nothing herein shall affect or derogate in any way the rights of, or exercise by, any public utility of its present and future acquired rights, to clear (and keep clear) trees and other growth from lands utilized, or to be utilized, for electric or communication facilities of any type, or dangerous trees adjacent thereto whether such rights were acquired by permits, easements, agreements, deeds, documents, or otherwise from landowners, or were acquired by condemnation, franchise or the operation of State law. The utility company shall cooperate with the City Horticulturists when clearing or pruning of the rights-of-way is exercised.

7). APPEAL OF GRANT OR DENIAL OF PERMIT

Appeals of either a grant or denial of permits pursuant to this Section 6.62 shall be to the Planning Commission and may be taken by the applicant or by any officer, department or board of the City affected by any decision of the City Horticulturist with respect to the administration or enforcement of this Section 6.62. All such appeals shall automatically be placed on the agenda of the next regularly scheduled meeting of the Planning Commission. The Planning Commission shall have the power to grant permits upon a showing by the applicant by clear and convincing evidence that the applicant will suffer extreme and extraordinary hardship. All appeals from the Planning Commission shall be to the Circuit Court of Barbour County and may be brought by any of the persons listed above.

SECTION II: SEVERABILITY

If any section, subsection, sentence, clause or phrase is for any reason held to be unconstitutional or otherwise invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance.

SECTION III: AFFECT OF ORDINANCE

This ordinance shall be in full force & effect from and after its adoption and publications as required by law with an effective date of January 1, 1995.

ADOPTED AND APPROVED this 18th day of July,
1994.

CITY OF EUFAULA, ALABAMA,
A MUNICIPAL CORPORATION

H. Collis Perdue

H. Collis Perdue, Council President

ATTEST:

Linda W. Howell
Linda W. Howell, City Clerk