
ZONING ORDINANCE
OF
EAST ELLIJAY, GEORGIA

TABLE OF CONTENTS

ARTICLE I	TITLE	I-1
Section 100	Short Title	I-1
ARTICLE II	PREAMBLE	II-1
Section 200	Preamble	II-1
Section 201	Adoption and Effective Date	II-1
ARTICLE III	ESTABLISHMENT OF ZONING DISTRICTS	III-1
Section 300	Certification by Planning Commission	III-1
Section 301	Zoning Map and Amendments	III-1
Section 302	Interpretation of District Boundaries	III-1
Section 303	Annexation and Other Adjustments to City Limits	III-1
ARTICLE IV	GENERAL PROVISIONS	IV-1
Section 400	Use of Land or Buildings	IV-1
Section 401	Lot Reduction Prohibited	IV-1
Section 402	Use of Substandard Lots of Record	IV-1
Section 403	Public Street Frontage	IV-1
Section 404	One Principal Building on a Lot	IV-2
Section 405	Planted Buffer Strips	IV-2
Section 406	Vision Clearance	IV-4
Section 407	Access to Public Streets	IV-4
Section 408	Corner Lots	IV-4
Section 409	Double Frontage Lots	IV-4
Section 410	Front Yard Requirements	IV-4
Section 411	Code Requirements	IV-5
ARTICLE V	ZONING DISTRICT SCHEDULE	V-1
Section 501	Single Family Residential District (R-1)	V-1
Section 502	Low Density Residential District (R-2)	V-1
Section 503	Medium Density Residential District (R-3)	V-2
Section 504	High Density Residential District (R-4)	V-2
Section 505	Planned Development District (PD)	V-2
Section 506	Transitional Mixed Use Commercial District (C-1)	V-3
Section 507	General Commercial District (C-2)	V-3
Section 508	Manufacturing District (M-2)	V-3
Section 509	Reserved	V-4
Section 510	Reserved	V-4
Section 511	Reserved	V-4
Section 512	Dwelling Compatability Standards	V-4
Section 513	Moving Mobile Homes	V-5
ARTICLE VI	LIST OF PERMISSIBLE AND CONDITIONAL USES	VI-1
ARTICLE VII	NON-CONFORMING USES	VII-1
Section 700	Non-conforming Use Discontinuance	VII-1
ARTICLE VIII	SUPPLEMENTARY REGULATIONS	VIII-1
Section 800	Home Occupation	VIII-1
Section 801	Accessory Uses	VIII-1
Section 802	Off-street Parking	VIII-3
Section 803	Parking, Storage, or Use of Boats and Recreational Vehicles	VIII-6
Section 804	Parking and Storage of Certain Vehicles	VIII-6

Section 805	Off Street Loading/Unloading Requirements	VIII-6
Section 806	Temporary Uses	VIII-7
ARTICLE IX SPECIAL EXCEPTIONS FOR PLANNED DEVELOPMENTS.....		IX-1
Section 900	Purpose.....	IX-1
Section 901	General.....	IX-1
Section 902	Planned Development Standards	IX-2
Section 903	General Requirements.....	IX-3
ARTICLE X ADMINISTRATION, ENFORCEMENT, APPEAL, COMPLAINTS, AND REMEDIES		X-1
Section 1000	Administration and Enforcement.....	X-1
Section 1001	Fees	X-1
Section 1002	Permit.....	X-1
Section 1003	Owner, Occupant, or Tenant May be Cited	X-1
Section 1004	Continuing Violation	X-1
Section 1005	Penalties for Violation	X-2
Section 1006	Remedies - Injunctive Relief	X-2
Section 1007	Remedies – Effect of Non-Compliance; Notice and Hearing Before Mayor and Council.....	X-2
Section 1008	Conflict with Other Laws.....	X-2
Section 1009	Separability	X-3
Section 1010	Repeal of Conflicting Ordinances.....	X-3
Section 1011	Certificate of Occupancy	X-3
Section 1012	Expiration of Land Use Permit	X-3
Section 1013	Appeal from the Decision of the Building Inspector	X-3
ARTICLE XI BOARD OF ZONING APPEALS.....		XI-1
Section 1100	Establishment of Board of Zoning Appeals.....	XI-1
Section 1101	By-Laws and Procedures	XI-1
Section 1102	Decisions of the Board of Appeals	XI-1
Section 1103	Appeals, Hearings, and Notices.....	XI-1
Section 1104	Powers and Duties of the Board of Appeals	XI-2
Section 1105	Appeals from Decisions of Board of Appeals	XI-3
ARTICLE XII AMENDMENTS		XII-1
Section 1200	Authority.....	XII-1
Section 1201	Requirements for Change	XII-1
ARTICLE XIII DEFINITIONS.....		XIII-1
Section 1300	Interpretation of Certain Terms or Words	XIII-1
ARTICLE XIV LEGAL STATUS PROVISIONS.....		XIV-1
Section 1400	Conflict with Other Laws.....	XIV-1
Section 1401	Validity	XIV-1
Section 1402	Repeal of Conflicting Ordinances.....	XIV-1
Section 1403	Effective Date	XIV-1
APPENDIX A ZONING PROCEDURES AND STANDARDS ORDINANCE		A-1
APPENDIX B SCHEDULE OF FEES.....		B-1

[NOTE: SIGN REGULATIONS AMENDED MAY 9,2000. REFER TO SEPARATE ORDINANCE DATED MAY 9,2000 WHICH SUPERSEDES ALL ORDINANCES, REGULATIONS OR PARTS THEREOF ISSUED PRIOR TO MAY 9, 2000.]

ARTICLE I

TITLE

AN ORDINANCE OF EAST ELLIJAY, GEORGIA, REGULATING THE LOCATION, CONSTRUCTION AND USE OF BUILDINGS, STRUCTURES AND LAND; AND FOR DIVIDING EAST ELLIJAY INTO DISTRICTS FOR SUCH PURPOSES, AND ESTABLISHING BOUNDARIES THEREFORE; PROVIDING FOR THE METHOD OF ADMINISTRATION AND AMENDMENT; PRESCRIBING PENALTIES FOR THE VIOLATION OF ITS PROVISIONS.

Section 100 Short Title

This ordinance shall be known as and may be cited as "THE ZONING ORDINANCE OF EAST ELLIJAY, GEORGIA."

ARTICLE II

Section 200 Preamble

WHEREAS, the Constitution of the State of Georgia, effective July 1, 1983, provides in Article IX, Section II, Paragraph IV thereof, that the governing authority of the City may adopt plans and exercise the power of zoning; and

WHEREAS, the Georgia General Assembly has enacted the Georgia Planning Act of 1989, (Georgia Laws, 1989, pp. 1317-1391, Act 634) which among other things provides for local governments to adopt plans and regulations to implement plans for the protection and preservation of natural resources, the environment, vital areas, and land use; and

WHEREAS, the Georgia Department of Community Affairs has promulgated Minimum Standards and Procedures for Local Comprehensive Planning (Chapter 110-3-2 of Rules of the Georgia Department of Community Affairs) to implement the Georgia Planning Act of 1989, said standards and procedures were ratified by the Georgia General Assembly, and said rules require local governments to describe regulatory measures and land development regulations needed to implement local Comprehensive Plans; and

WHEREAS, the Mayor and Council of East Ellijay has adopted a Comprehensive Plan in accordance with the requirements of the Georgia Planning Act of 1989, Rules of the Georgia Department of Community Affairs, and Rules of the Georgia Department of Natural Resources, and said plan is revised from time to time; and

WHEREAS the Mayor and Council desires to help assure the implementation of its Comprehensive Plan; and

WHEREAS, the Mayor and Council desires to promote the health, safety, welfare, morals, convenience, order, and prosperity of the city and its citizens;

NOW THEREFORE BE IT RESOLVED by the Mayor and Council, and it is hereby resolved by the authority of the same, that the following or chapters and sections known collectively as the City of East Ellijay Zoning Ordinance is hereby enacted into law.

WHEREAS, the Mayor and Council desires to promote responsible growth, lessen congestion in the public thoroughfares, secure safety from fire and health dangers, and promote desirable living conditions; and

WHEREAS, the Mayor and Council desires to regulate the height, bulk, and the size of buildings and structures; and

WHEREAS, the Mayor and Council desires to classify land uses, establish procedures and regulations for the development of land, and regulate the distribution and density of uses on the land to avoid both the undue concentration of population and the inappropriate dispersion of population, prevent the encroachment of incompatible land uses within residential areas, and preserve property values; and

WHEREAS, the Mayor and Council desires to provide for economically sound and stable land development by assuring the provision in land developments of adequate streets, utilities, services, traffic access and circulation, public open spaces, and maintenance continuity; and

WHEREAS, the Mayor and Council finds that the regulations contained in this ordinance are the minimum necessary to accomplish the various public purposes; and

WHEREAS, the General Assembly of the State of Georgia enacted Ga. Laws 1985, page 1139, Act. No. 662, providing for an amendment to Title 36 of the Official Code of Georgia Annotated, codified as O.C.G.A. Sections 36-66-1 et seq., so as to provide procedures for the exercise of zoning powers by cities and counties; and

WHEREAS, appropriate public notice and hearing have been accomplished; and

WHEREAS, the planning commission has considered this matter;

Section 201 Adoption and Effective Date

This ordinance is hereby adopted this 14th day of October, 2003, and shall be effective immediately upon its adoption, the public welfare demanding it.

Donna A. West MAYOR

ATTEST:

Michelle B. Green
City Clerk

APPROVED AS TO LEGAL FORM AND SUFFICIENCY:

Russell D. Jones
City Attorney

Section 202 Legal Status Provisions

202.2 Jurisdiction

Unless this ordinance clearly indicates otherwise, this ordinance shall apply within the incorporated limits of the City of East Ellijay, Georgia.

202.3 Conflicts with other laws

Whenever the regulations of this ordinance require or impose more restrictive standards than are required in or under any other ordinance, the requirements of this ordinance shall govern. Whenever the provisions of any state or federal statute requires more restrictive standards than are required by this ordinance, the provisions of such statute shall govern.

202.4 Validity and Severability

Should any section or provision of this ordinance be declared invalid or unconstitutional by any court of competent jurisdiction, such declaration shall not affect the validity of the ordinance as a whole or any part thereof, which is not specifically declared to be invalid or unconstitutional.

202.5 Repeal of Conflicting Ordinances

All ordinances and parts of ordinances in conflict herewith are repealed to the extent necessary to give this ordinance full force and effect.

202.6 Codification

It is the intention of the Mayor and City Council, and it is hereby resolved that the provisions of this ordinance shall become and be made a part of the official code of the City of East Ellijay, and the sections of this ordinance may be renumbered or reorganized to accomplish such intention.

ARTICLE III

ESTABLISHMENT OF ZONING DISTRICTS

Section 300 Certification by Planning Commission

For the purposes of the Ordinance, East Ellijay, Georgia, is hereby divided into districts as shown on the Official Zoning Map which is hereby made a part of this ordinance; made a public record, and shall be kept permanently in City Hall, where said map will be accessible to the general public.

Section 301 Zoning Map and Amendments

The Official Zoning Map of East Ellijay with the boundaries of each district, all explanatory matters thereon, and all amendments hereafter, is hereby made a part of this ordinance.

No changes of any nature shall be made on the Official Zoning Map or matter shown thereon except in conformity with the Zoning Procedures and Standards Ordinance (See Appendix A). Any unauthorized change of whatever kind by any person or persons shall be considered a violation of this Ordinance and is punishable as provided by Law.

If, in accordance with the provisions of this ordinance, changes are made in the district boundaries or other information portrayed in the Official Zoning Map, changes shall be made on the Official Zoning Map promptly, after the amendment has been approved by the City Council of East Ellijay together with a numerical entry on the Official Zoning Map referring to the application on file which states the date of the official action and description of the nature of the changes. No amendment to this regulation which involves matter portrayed on the Official Zoning Map shall become effective until after such change and entry have been made on said map.

Regardless of the existence of purported copies of the Official Zoning Map which may from time to time be made or published, the Official Zoning Map which shall be located in the office of the City Clerk shall be the final authority as to the office of zoning status of land and water areas, buildings and other structures in the city.

Section 302 Interpretation of District Boundaries

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

302.1 Unless otherwise indicated, the district boundary lines are center lines of streets or blocks or such lines extended, lot or property lines, corporate limit lines, the center line of the main tracks of a railroad, a line lying in the center of a stream or drainage way, or the city limits of East Ellijay.

- 302.2** Where district boundary lines parallel street rights-of-way or other discernable topographic features, the exact distance shall be scaled from the map.
- 302.3** Where a district boundary line divides a lot which is single ownership at the time of this enactment, the use classification of the larger portion may be extended to the remainder without recourse to amendment procedure.
- 302.4** In case the exact location of a boundary cannot be determined by the foregoing methods, the Board of Appeals shall, upon application, determine the location of the boundary.
- 302.5** Where a public road, street, alley, or other right-of-way is officially vacated or abandoned, the regulations applicable to the property to which it is reverted shall apply to such vacated or abandoned road, street, alley, or right-of-way.
- 302.6** Boundaries of the wetland areas, if any, are approximate only and are subject to adjustment by engineering field surveys and/or detailed soil surveys as may exist or be conducted in the future. The Building Inspector shall determine if engineering and/or soil surveys indicate adjustment from the lines determined by the scale of the map. In case of disagreement, the Board of Appeals shall make the determination. The applicant will also be required to show that proposed structural foundations and footings will adequately compensate for any deficiencies in engineering characteristics of the soils for the type of development contemplated.

Section 303 Annexation and Other Adjustments to City Limits

All annexations and other adjustments to the city limits shall be governed by the Zoning Procedures and Standards Ordinance (See Appendix A).

ARTICLE IV

GENERAL PROVISIONS

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

Section 400 Use of Land or Buildings

400.1 No land or building shall hereinafter be used or occupied, and no building or parts shall hereinafter be constructed, erected, altered, or moved, unless in conformity with all of the regulations herein specified for the district in which it is located.

400.2 No building or other structure shall hereafter be erected or altered:

- a. to exceed the original size or bulk;
- b. to accommodate or house a greater number of families;
- c. to occupy a greater percentage of lot area;
- d. to have narrower or smaller rear yards, front yards, side yards, or other open spaces than herein required; or in any other manner contrary to the provision of this Ordinance.

400.3 No part of a yard, or other open space, or offstreet parking or loading 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 offstreet parking or loading space similarly required for any other building.

400.4 Right-of-way easements for streets and roads shall not be considered a part of a lot or open space, or front, rear, or side yard for the purpose of meeting yard requirements.

Section 401 Lot Reduction Prohibited

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

Section 402 Use of Substandard Lots of Record

Single lots: Where the owner of a lot at the time of the adoption of this Ordinance does not own sufficient land to enable him to conform to the dimensional requirements of this Ordinance, such lot may nonetheless be used as a building site.

Adjoining lots: If two or more adjoining lots with continuous frontage are in single ownership after the adoption of this ordinance and such lots individually are too small to

meet the yard, width, area requirements of the district in which they are located, such 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.

Section 403 Public Street Frontage

No building shall be erected on a lot which does not abut for at least fifty (50) feet on a public street or private street.

Section 404 One Principal Building on a Lot

Only one principal building and its customary accessory buildings may hereafter be erected on any one lot, unless otherwise provided by this Ordinance.

Section 405 Planted Buffer Strips

Where commercial or industrial districts abut residential districts, a planted buffer strip fifteen (15) feet wide shall be provided between the commercial or industrial use and the residential use. The more intense use shall provide the buffer. Such buffer can be part of the required minimum side or rear setback. If unlike zone districts abut, the similar uses that abut each other shall be exempt from buffers unless the use changes to a more intense use, whereupon the more intense use shall provide the required buffer.

Buffer Design. All buffers required by this Article shall conform to the following specifications:

Prior to development, a buffer plan shall be required to show the types and locations of all plantings within a required buffer. If a site plan is required, a buffer plan shall be incorporated as part of the site development plan.

Landscaping within buffer areas shall be used to screen objectionable views or nuisances, such as parking and service areas, refuse containers, air conditioning units and transformers.

Existing on-site trees may be credited as meeting the requirements of this Article if the Zoning Administrator determines that such plant materials achieve the purposes of this Article.

Buffer Composition. All buffers shall be composed of any or all of the following screening materials and techniques.

Plantings. Plantings shall consist of either trees or shrubs or any combination of both. Planted areas shall be located along the abutting property lines or in areas that will be provide the best screening effectiveness.

If trees or large shrubs are used solely as the screening device, they shall be any evergreen species from the list provided by the Zoning Administrator/Building

Inspector, which under normal growing conditions, will attain a minimum height of eight (8) feet and a canopy spread of ten feet within four (4) years. They shall be planted a minimum twenty (20) feet on center as shown in the following illustration.



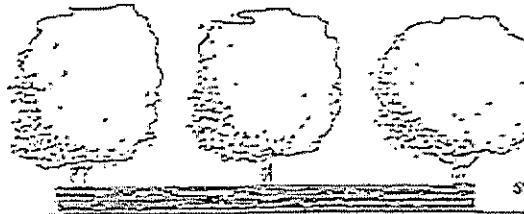
TALL EVERGREEN TREES, STAGGER PLANTED, WITH BRANCHES TOUCHING THE GROUND. SEE PLANTING LIST

If trees are used in combination with shrubs, they may be of any species from the list provided by the Zoning Administrator. Small trees shall be planted thirty- (30) foot on center, and large trees forty- (40) foot on center as shown in the following illustration. Shrubs shall be any evergreen species from the list provided by the Zoning Administrator planted four (4) feet on center as shown in the following illustration. Shrubs shall initially be of any size, which would normally attain a minimum height of six (6) feet within three (3) years after planting.

SMALL TREES PLANTED 30' ON CENTER. SEE PLANTING LIST



6' HIGH EVERGREEN SCREENING SHRUBBERY PLANTED 4' ON CENTER. SEE PLANTING LIST



LARGE TREES PLANTED 40' ON CENTER. SEE PLANTING LIST

5' HIGH REDWOOD FENCE

Walls. Walls shall be of masonry construction and a minimum height of eight (8) feet. The wall shall be placed on the edge of the buffer nearest the most intense land use.

Fences. Fences shall be a minimum of eight (8) feet in height and constructed of standard wood fencing materials and methods or chain link with woven inserts that will provide ninety percent (90%) visual blockage as shown in the examples provided by the Zoning Administrator. The fence shall be placed on the edge of the buffer nearest the most intense land use.

Berms. Earthen berms shall have a minimum height of eight (8) feet.

Section 406 Vision Clearance

In all districts no fence, wall shrubbery, or other obstruction to vision between the heights of two and a half (2 1/2) feet and ten (10) feet above the finished grade of streets shall be erected, permitted, or maintained within twenty (20) feet of the intersection of the right-of-way lines of the streets, the street and a driveway, or the street and railroads. Mailbox structures are exempt from this requirement.

Section 407 Access to Public Streets

Access to public streets shall be maintained in accordance with the following requirements:

407.1 Each principal use shall be located on a lot or parcel which provides frontage on a public or private street having a right-of-way of not less than thirty (30) feet.

407.2 Local streets which will carry less than six hundred (600) cars per day may have access points as needed to fit the development. Collector streets and arterial streets which are projected to carry more than six hundred (600) cars per day shall have a minimum distance between access points equal to seven (7) times the speed limit for that street.

Section 408 Corner Lots

On lots having frontage on more than one street at an intersection, the minimum front yard requirement may be reduced to one-half the regulated distance on the portion of the lot fronting on the street or streets of less importance. However, in no case shall the setback be reduced to less than fifteen (15) feet. The minimum front yard for the portion of the lot fronting on the street of greater importance shall be provided in accordance with the provisions established by this Ordinance for the District in which the lot is located.

Section 409 Double Frontage Lots

On lots having frontage on two streets, but not located on a corner, the minimum front yard shall be provided on each street in accordance with the provisions of this Ordinance. On lots having frontage on more than two streets, the minimum front yard shall be provided in accordance with the regulations set forth in this Ordinance on at least two of the street frontages. The minimum front yard on the other frontage or frontages may be reduced along the other streets in accordance with the provisions of Section 408.

Section 410 Front Yard Requirements

The setback requirements of this Ordinance shall not apply to vacant lots in established neighborhoods developed before the adoption date of this Ordinance. The front setback standard of such a lot shall be established by taking the average setback of adjacent lots on the same right-of-way that are within 100 feet of the side property lines of the vacant lot.

The lots used for the average computation, must also be on the same side of the right-of-way as the vacant lot, and in the same zoning district as the vacant lot. In this case, the front setback can be less than the zoning district requirement. However, in no case shall a setback be less than 15 feet.

Section 411 Code Requirements

All structures shall meet the requirements of all adopted codes in effect including, but not limited to, Building Code, Plumbing Code, Electrical Code, Fire Prevention Code, and Housing Code. Where such codes exceed the minimum requirements of this ordinance, the stricter provisions shall apply.

**ARTICLE V
ZONING DISTRICT SCHEDULE**

Section 500 Purpose and Establishment.

The zoning districts established in this ordinance are intended to: promote the orderly future development of the city in accordance with the comprehensive plan; discourage the size and type of development which would create excessive requirements and costs for public services; discourage uses which because of their size or type would generate an abnormal amount of traffic on minor streets; establish relationships between and among land uses that will ensure compatibility and maintain quality of life; and protect and promote suitable environments for residences, institutions, commercial and other employment centers, and other uses. The following use districts are hereby established:

Single Family (R-1)
Low Density Residential (R-2)
Medium Density Residential District (R-3)
High Density Residential District (R-4)
Planned Development District (PD)
Transitional Mixed Use Commercial District (C-1) —
General Commercial District (GC)
General Industrial District (M-2)

Section 501 Single Family Residential District (R-1)

- a. **Purpose and intent.** This district is intended to specifically provide for only low-density residential areas, consisting of large lot detached single-family dwellings and accessory uses.
- b. **Permitted and conditional uses.** Permitted and conditional uses shall be as provided in Table 6-1, "Permitted and Conditional Uses by Zoning District."
- c. **Dimensional requirements.** Dimensional requirements shall be as provided in Table 6-2, "Dimensional Requirements by Zoning District."

Section 502 Low Density Residential District (R-2)

- a. **Purpose and intent.** This district is intended to provide for low-density residential areas consisting of detached single-family dwellings and duplexes on larger lot sizes need to accommodate this type of development. The district will allow a pattern of low density residential development to occur and also provides some flexibility with housing types not afforded by the R-1 district. The district is limited to one principal building per lot.
- b. **Permitted and conditional uses.** Permitted and conditional uses shall be as provided in Table 6-1, "Permitted and Conditional Uses by Zoning District."

- c. **Dimensional requirements.** Dimensional requirements shall be as provided in Table 6-2, "Dimensional Requirements by Zoning District."

Section 503 Medium Density Residential District (R-3).

- a. **Purpose and intent.** This district is intended to provide for moderate density residential areas consisting of two-unit, three-unit, and four-unit residential buildings. This district is intended to create a smooth transition between the R-1 and R-2 districts and the R-4 and C-1 districts. This district is limited to one principal building per lot.
- b. **Permitted and conditional uses.** Permitted and conditional uses shall be as provided in Table 6-1, "Permitted and Conditional Uses by Zoning District."
- c. **Dimensional requirements.** Dimensional requirements shall be as provided in Table 6-2, "Dimensional Requirements by Zoning District."

Section 504 High Density Residential District (R-4)

- a. **Purpose and intent.** This district is intended to provide for high density residential areas consisting of attached housing types, condominiums, multifamily units, and apartments. This district is intended to be transitional between the lower density residential districts and the Transitional Mixed Use District, General Commercial District and Industrial District. This district allows multiple buildings per lot.
- b. **Permitted and conditional uses.** Permitted and conditional uses shall be as provided in Table 6-1, "Permitted and Conditional Uses by Zoning District."
- c. **Dimensional requirements.** Dimensional requirements shall be as provided in Table 6-2, "Dimensional Requirements by Zoning District."

Section 505 Planned Development District (PD)

- a. **Purpose and intent.** The Planned Development District potentially allows a mix of uses to occur within a specific boundary. Such developments are subject to specific site plan approval processes. Multiple dwelling types along with public/semi-public, recreational, commercial, and limited industrial uses are possible.
 - i. The Planned Developments shown on the Zoning Map of the City of East Ellijay have been approved via the Planned Development process, and are tied to a master site development plan which details land uses, acreage, and distribution of uses. The requirements for creating a planned residential development, as well as the specific uses allowed, are outlined in Article X of this Zoning Ordinance.

- b. **Permitted and conditional uses.** Permitted and conditional uses shall be as provided in Table 6-1, "Permitted and Conditional Uses by Zoning District."
- c. **Dimensional requirements.** Dimensional requirements shall be as provided in Table 6-2, "Dimensional Requirements by Zoning District."

Section 506 Transitional Mixed Use Commercial District (C-1)

- a. **Purpose and intent.** This district is established to create transitional development in areas between commercial or industrial districts and residential districts. This district is intended to provide for low to medium intensity commercial or office developments, as well as medium to high density residential developments. These developments are intended to be of the intensity, scale, and character similar to nearby residential development to promote compatibility with the surrounding areas. This district is particularly appropriate for properties that front collector or arterial streets on the fringe of stable residential neighborhoods. Development within C-1 district is expected to have roof-pitches and architectural treatments similar to the existing residential uses, parking areas in proportion to adjacent residential uses, and site development features that ensure a coexistence with the adjacent quiet residential living environment. Such areas commonly include residential areas which are converting to low-traffic, low-impact commercial opportunities. This district is limited to one principal building per lot.
- b. **Permitted and conditional uses.** Permitted and conditional uses shall be as provided in Table 6-1, "Permitted and Conditional Uses by Zoning District."
- c. **Dimensional requirements.** Dimensional requirements shall be as provided in Table 6-2, "Dimensional Requirements by Zoning District."

Section 507 General Commercial District (C-2).

- a. **Purpose and intent.** This district is intended to provide suitable areas for the retailing of goods and the provision of services needed to sustain the City of East Ellijay's commercial and service needs. Development within this district is intended to be located on major collector, minor arterial or major arterial roads only. This district allows multiple buildings per lot.
- b. **Permitted and conditional uses.** Permitted and conditional uses shall be as provided in Table 6-1, "Permitted and Conditional Uses by Zoning District."
- c. **Dimensional requirements.** Dimensional requirements shall be as provided in Table 6-2, "Dimensional Requirements by Zoning District."

Section 508 Manufacturing District (M-2).

- a. **Purpose and intent.** The purposes of this district is to provide and reserve suitable areas for a variety of industrial uses including manufacturing, wholesale trade and distribution activities. This district is only intended to be located in areas with relatively level

topography, adequate water and sewerage facilities, and access to arterial streets and highways. Industrial districts may be appropriate at the single lot level of development; however, these uses are encouraged to locate in planned industrial parks where possible. This district allows multiple buildings per lot.

- b. Permitted and conditional uses. Permitted and conditional uses shall be as provided in Table 6-1, "Permitted and Conditional Uses by Zoning District."
- c. Dimensional requirements. Dimensional requirements shall be as provided in Table 6-2, "Dimensional Requirements by Zoning District."

Section 509 [Reserved]

Section 510 [Reserved]

Section 511 [Reserved]

Section 512 **Dwelling Compatibility Standards.**

All single-family detached dwellings including site-built homes, industrialized homes, and manufactured homes must comply with the compatibility standards of the zone districts where they are proposed to be located. When a building permit is sought, the Building Inspector shall make a determination if the proposed dwelling meets the Compatibility Criteria as shown in Table 5-1.

If the Building Inspector finds that the proposed dwelling meets the Compatibility Criteria, approval of the building permit will be granted. Those who disagree with the Building Inspector's findings may appeal the decision through the Board of Appeals as described in Article XII.

**Table 5-1
Compatibility Standards for
Single Family Detached Dwellings**

MINIMUM REQUIREMENTS	TYPE 1 DWELLINGS	TYPE 2 DWELLINGS
Minimum Dwelling Width: (Constructed)	24.0 feet	17.0 feet
Heated Floor Area	1,200 square feet	1,000 square feet
Foundation	Must be attached to a permanent foundation per Building Codes.	Must be attached to permanent foundation per Building Codes.
Hitches, wheels, axles and other towing devices:	If present, must be removed.	If present, must be removed.
Entry ways and landing areas:	Must be similar to houses within 500 feet in the same Zone District.	Must be similar to houses within 500 feet in the same Zone District.
Minimum Roof Pitch:	5/12	2/12
Roof Materials:	Must be of wood shakes, wood or asphalt composition shingles, standing seam metal, or other materials similar to houses within 500 feet in the same Zone District.	Must be of wood shakes, wood or asphalt composition shingles, standing seam metal, or other materials similar to houses within 500 feet in the same Zone District.
External Siding Materials:	Must be of brick, stucco, wood, masonite, metal or vinyl lap siding or other materials similar to houses within 500 feet in the same Zone District.	Must be of brick, wood, stucco, masonite, metal or vinyl lap siding or other materials similar to houses within 500 feet in the same Zone District.

Section 513

No mobile home manufactured or built on or before June 15, 1976, shall be moved into or moved within East Ellijay after the effective date of this ordinance. Further, measured from the date that a building permit is first requested in East Ellijay back to the date at which an individual manufactured home is completed and ready for market, any such manufactured home that is older than ten (10) years shall be prohibited.

ARTICLE VI

LIST OF PERMISSIBLE AND CONDITIONAL USES

Table 6-1

Permitted and Conditional Uses by Zoning District

Permitted uses are allowed outright. Conditional uses require approval by the Mayor and Council per the process established by the Zoning Procedures and Standards Ordinance. In cases where a use is proposed but is not listed in this table, the Zoning Officer shall make an administrative determination as to whether or not the use is permitted in the zoning district or districts in question. The Zoning Officer may determine that such use is substantially similar to a permitted use and allow that use to be permitted. The Zoning Officer may determine that such use is substantially similar to a conditional use, and permit that use as a conditional use via the process. The Zoning Officer may determine that such use is prohibited altogether in the use district or districts in question. In making such determinations, the Zoning Officer shall consult the purpose and intent statements of the zoning district or districts in question, in addition to comparing the use in question to uses specifically listed in this table. For uses not included on this list, where the Zoning Officer is unable to determine placement, application shall be made to the Board of Appeals for interpretation or the Ordinance shall be first amended to include the use. The following table shows uses that are permitted (P) and conditionally permitted (C).

USE DESCRIPTION	R-1	R-2	R-3	R-4	PD	C-1	C-2	M-2
Accessory uses and structures not otherwise listed in this table, normally incidental to one or more permitted principal uses (see Section 801)	P	P	P	P	P	P	P	P
Active recreational facilities, nonprofit, such as tennis courts and swimming pools, as principal uses	C	C	P	P	P	P	P	
Active recreational facilities, nonprofit, such as tennis courts and swimming pools, as accessory to one or more permitted uses	P	P	P	P	P	P	P	
Airport public/private							C	C
Amusement Park							C	
Animal hospitals and veterinary clinics							P	P
Assembly of products							C	P
Assisted Living Facility				P	P		P	
Associations (clubs and lodges)					P		P	
Athletic club					C		P	
Auditorium/Assembly Hall					C		P	C
Bait sales							P	
Bakery/baked goods					P		P	C
Bar, cocktail lounge, tavern							P	
Barber/beauty shop/salon					P		P	
Bed and Breakfast Home	C	C	C	P		P	P	
Bed and breakfast inns				P	P	P	P	
Boarding and rooming houses				P	P	P	P	

USE DESCRIPTION	R-1	R-2	R-3	R-4	PD	C-1	C-2	M-2
Bottled gas storage and distribution							P	P
Bottling and canning plants								P
Bowling alley							P	
Broadcast studio (radio, TV)							P	P
Breweries and distilleries								P
Builder's equipment, storage materials							C	P
Business service establishments, not exceeding 2,500 square feet of gross floor area					P	P		
Business service establishments							P	P
Cabins - seasonal								
Campgrounds public/private				C			P	
Carpet and rug sales and storage							P	P
Cement manufacturers								C
Cemeteries (commercial businesses)							C	C
Ceramic production facilities								P
Cesspool builder, sales - service								P
Churches, temples, synagogues, and places of worship, including cemeteries as accessory uses (See Section 801.2)	C	C	P	P	P	P	P	
Clinic, medical					P		P	P
Club or lodge, nonprofit				C	P	P	P	
Coating of cans, coils, fabrics, vinyl, metal, furniture, appliance surfaces, wire, paper, and flat wood paneling								P
Cold storage plants and frozen food lockers								P
Colleges and universities	C	C	C	C			C	C
Commercial recreational facility, indoor							P	P
Commercial recreational facility, outdoor							P	C
Community center	C	C	C	C	C		P	
Conference centers and retreat centers	C	C	C	C			P	
Conservation areas and passive recreational facilities	P	P	P	P	P	P	P	P
Convent				P			P	
Convenience Store					P		P	P
Correctional facility							P	P
Country clubs, including golf courses and clubhouses including restaurants and golf pro shops as accessory uses	C	C	C	C	C		P	
Curio and souvenir shops (only within residential structure in C-1)						P	P	
Dairies/Cattle Farms	C							C
Day Care Home, Family	P	P	P	P	P	P	P	P
Day care centers serving seven or more persons				P	P		P	P
Dry cleaning plants							P	P
Dry cleaning pickup station					P		P	
Dwellings, single-family attached (townhouses)		P	P	P	P	P		
Dwellings, two-family (duplexes)		P	P	P	P	P		

USE DESCRIPTION	R-1	R-2	R-3	R-4	PD	C-1	C-2	M-2
Dwellings, multi-family (apartments and condominiums)				P	P		C	
Dwellings, two-family, three-family, four-family			P	P	P	P		
Dwellings, located within a building containing another principal use					C	P	P	
Dwellings, single-family detached (Sec Table 5-1 - Type I)	P	P	P	P	P	P		
Dwellings, single-family detached (Sec Table 5-1 - Type II)			P	P				
Exterminating and pest control businesses and disinfecting services							P	P
Extraction industries - quarry-equipment storage								C
Farmlands (excluding livestock)	P						P	P
Feed, grain, and fertilizer manufacturers								P
Fiberglass insulation manufacturers								P
Finance, insurance and real estate establishments, less than 2,500 square feet of gross floor area per establishment					P	P	P	P
Finance, insurance and real estate establishments							P	P
Fire station, fire tower	C	C	C	C	C	P	P	P
Fish - meat, wholesale, cure, storage							P	P
Fish Hatchery	C							
Food processing plants, including fish and poultry facilities								P
Forest uses associated with production, management and harvesting of timber							P	P
Fuel oil distributors and petroleum bulk storage sites								P
Funeral homes and mortuaries							P	P
Game preserve	C							
Gardens, non-commercial, as accessory to residential use	P	P	P	P	P			
Garage, public storage							P	P
Garage, repair							P	P
Go kart, motor- bike track							P	P
Golf course, driving range, mini golf							P	P
Grocery store							P	
Gravel pit								C
Greenhouses, non-commercial, as accessory to residential use	P	P	P	P				
Group Home	P	P	P	P	P	P		
Guest houses (Sec Table 5-1, as appropriate)	C	C	C	C				
Hazardous waste receiving, handling, and disposal facilities								C
Halfway house, drug rehabilitation center, or other center for treating drug dependency (1) (See O.C. GA 36-66-1)				C		C		
Health spas					C	C	P	
Hog farms	C							C

USE DESCRIPTION	R-1	R-2	R-3	R-4	PD	C-1	C-2	M-2
Home occupations (See Section 800)	P	P	P	P	P	P	P	P
Horse stables, non-commercial, as accessory to residential use	C	C						
Hospital, medical							P	C
Ice manufacturing, sales							P	P
Imported goods, warehouse sales							P	P
Incinerators, including medical wastes								C
Institutional residential living and care facilities, serving seven or more persons				P	P		P	
Junkyards, wrecked motor vehicle compounds, and wrecker services								C
Kennel							P	P
Landfills, inert waste								C
Landfills, sanitary								C
Laundry, self serve, pickup					P		P	P
Laundry plant							P	P
Liquor store					P		P	P
Livestock raising, not including poultry and hogs	C							
Lodging services, motel, hotel							P	
Lubrication, Jiffy/Quick Lube							P	P
Manufacturing, heavy, general								P
Manufacturing, light, limited							C	P
Metal products manufacturing, machine shop, welding shop							C	P
Mini-warehouses and self storage facilities						P	P	P
Motor Vehicle sales and service establishments							P	P
Museum, historical display				C	C	P	P	P
Nurseries and greenhouses: wholesale and retail sale of trees, plants, and shrubs							P	P
Offices					P	P	P	C
Open air businesses and unenclosed retail trade establishments							P	
Open storage yards as principal uses							P	P
Parking lots and decks, off-site, as principal uses							P	P
Paving, temp batch plant								P
Personal Care Facility (See Assisted Living Facility) establishments						P	P	
Poultry houses, egg production	C							C
Printing, photo-engraving							P	P
Public and semi-public uses	C	C	C	C	P	P	P	P
Public utilities, electric power substations	C	C	C	C	C	C	P	P
Recycling centers, collection points							P	P
Recycling centers, processing							P	P
Research, scientific, and testing laboratories							P	P

USE DESCRIPTION	R-1	R-2	R-3	R-4	PD	C-1	C-2	M-2
Restaurants, including outside seating areas but not including drive-ins or drive-through facilities					P		P	P
Restaurants, including drive-ins or drive-through facilities					P		P	P
Real estate office					C	P	P	P
Retail establishments, enclosed, not exceeding 2,500 square feet of gross floor area					P		P	P
Retail establishments, enclosed, exceeding 2,500 square feet of gross floor area							P	P
Roadside park, wayside							P	P
Schools, public/private elementary, middle, and high	C	C	C	C	C	P	P	
Schools for dance, martial arts, and other disciplines operated for profit or nonprofit					P		P	
Schools, trade and technical							P	
Service and fuel filling stations					P		P	P
Sewage disposal plant								C
Shopping Center							P	
Skating rink, roller, ice							P	
Solid waste transfer stations							P	P
Solvent metal cleaning								P
Storage yard, equipment								P
Tattoo, Tanning							P	
Taxidermist							P	P
Temporary structures and uses approved by the Land Use Officer/Council (See Section 806)								
Textile manufacturing and processing								P
Tire re-treading and re-capping facilities							C	P
Tire repair - supplies							P	P
Tourist home							P	
Tower, Telecommunication	C	C	C	C			P	P
Truck terminals							C	P
Utility Substation (gas, electric, telephone)	C	C	C	C	C	C	P	P
Warehouses and storage buildings					C		P	P
Water resources facilities								P
Wholesale trade establishments							P	P
Wineries	C						P	P
Wood products manufacturing, saw mill, lumber yards							C	P

- (1) A public hearing shall be held on the proposed development at least six months and not more than nine months prior to the date of final action on the zoning decision. This hearing required by subsection 36-66-4 (f) Georgia Official Code shall be in addition to any hearing required by subsection 36-66-4 (a) Georgia Official Code.

Table 6-2
Dimensional Requirements by Zoning District

		MINIMUM LOT AREA (square feet) ¹	MINIMUM LOT WIDTH ²	MINIMUM FLOOR AREA	MINIMUM SETBACKS (in feet)			MAXIMUM BUILDING HEIGHT (feet)	MAXIMUM BUILDING COVERAGE
					FRONT	SIDE	REAR		
R-1	W/sewer	12,000	100'	1,200	30	12	15	35'	25%
R-2	W/sewer Single family detached W/sewer Attached single family duplex	9,000 11,000	80'	1,100 (sf)	30	12	15	35'	25%
R-3	W/sewer Single family detached W/sewer 3 unit multi-family W/sewer 4 unit multi-family	8,500 10,500 12,500	60' 70' 80'		25			35'	35%
R-4	W/sewer	7,500+ 2,500 for each add'l ³ unit/acre	100'		25	15	15	35'	45%
PD	W/sewer	See Article X							
C-1	W/sewer		50' 60 (adjacent to residential)		25	15	15	35'	40%
C-2	W/sewer		50' 60 (adjacent to residential)		25	15	15	40'	45%
M-2	W/sewer		80'		30	20	20	40'	45%

1. All standards assume the availability of public water and public sewer. Otherwise lot areas may increase per the requirements of the Gilmer County Health Department.
2. Measured at the minimum front building line.
3. Maximum density is 15 dwelling units per acre. (For example: a site containing 1.3 acres allows 15 units for the first acre and 3 units for the remaining .3 acres.)

ARTICLE VII

NONCONFORMING USES

Nonconforming uses are declared by this Ordinance to be incompatible with the permitted uses in any district. To avoid undue hardship, the lawful use of any building or land use at the time of the enactment of this Ordinance may be continued even though such use does not conform with the provisions of this Ordinance except that the nonconforming building or land use shall not be: Changed to another nonconforming use:

- a. Reestablished after discontinuance for sixty (60) days or more;
- b. Repaired, rebuilt, or altered after damage exceeding fifty (50) percent of its replacement cost at the time of destruction, provided, however this provision shall not apply to owner-occupied dwellings. In all cases, reconstruction shall begin within six (6) months after damage is incurred.
- c. Enlarged or altered in a way which increases its nonconformity.

Nothing in this Article shall be deemed to prevent the strengthening or restoring to a safe condition any building or part thereof declared to be unsafe by any official charged with protecting the public safety or health upon order of such official.

Section 700 Nonconforming Use Discontinuance

Notwithstanding other provisions of this Ordinance, certain nonconforming land uses, after this Ordinance is enacted into law, shall be discontinued, and/or shall be torn down, altered, or otherwise made to conform with this Ordinance within the periods of time set forth below. Upon application to the Board of Appeals, the Board, either according to general rule or upon finding in the specific case, may permit not more than one extension for not more than the time indicated.

Notice shall be sent by the Building Inspector to all nonconforming users stating wherein they do not conform to said ordinance and stating the date by which they must either comply or cease to exist. The date that a nonconforming use must either comply or cease to exist shall be measured from the date of enactment of this Ordinance and shall be observed regardless of whether notice of nonconformity is sent by the Building Inspector or received by the affected owner.

Nonconformities	To Be Discontinued Within	Maximum Extension that may be Permitted
Wrecking, junk, scrap, or salvage yards and other open uses of land, signs, outdoor advertising structures, automotive storage and sales lots, outdoor storage yards for lumber, building materials, contractor's equipment.	One Year	6 months
Nonconforming fences, walls, and hedges impeding vision at intersections.	180 days	30 days

ARTICLE VIII

SUPPLEMENTARY REGULATIONS

Section 800 Home Occupation

A home occupation shall be permitted in any dwelling, provided that such occupation:

- a. Is conducted by no persons other than members of the family residing on the premises;
- b. Is conducted entirely out-of-sight of neighboring properties within the principal building or customary accessory structure;
- c. Utilizes not more than twenty-five (25) percent of the total floor area of the principal building;
- d. Produces no alteration or change in the character or exterior appearance of the principal building from that of a dwelling;
- e. Involves no sale or offering for sale of any article not produced or assembled by members of the family residing on the premises;
- f. Creates no disturbing or offensive noise, vibration, smoke, dust, odor, heat, glare, traffic hazard, parking problem, voltage fluctuation, radio or television interference, open storage of materials or stock, unhealthy or unsightly condition;
- g. Is not visibly evident from outside the dwelling except for a sign no larger than one (1) square foot in size.

Section 801 Accessory Uses

In addition to the principal uses, each of the following uses is considered to be a customary accessory use, and as such, may be situated on the same lot with the principal use or uses to which it serves as an accessory. General accessory use provisions follow:

- a. Such structures shall not be permitted in any required front yard.
- b. Except as herein provided, no accessory building shall project beyond a required yard line along any street.
- c. Residential accessory uses such as garages, greenhouses or workshops, shall not be rented or occupied for commercial purposes.
- d. No accessory building shall be constructed upon a lot until construction of the principal building has commenced.
- e. No garage or other accessory building shall be located closer than five feet to a rear or side lot line in a residential district.
- f. Motor vehicle station pumps and pump islands where permitted may occupy the required yards, provided however, that they are not less than 15 feet from street R/W

- lines. Canopies must have a minimum height clearance of 14 feet and whether attached or detached shall not extend within 10 feet of any property line.
- g. No non-residential accessory building shall be used by other than employees of the owner, leasee, or tenant of the premises and such accessory buildings shall meet the setback of the principal structure.
 - h. Accessory uses in an apartment development may include, but shall not be limited to, laundry facilities for the convenience of residents, which must be housed in a primary use structure.
 - i. An ornamental fence or wall may project into or enclose the required front, side, or rear yard provided such fences and walls do not exceed a height of six feet.
 - j. Accessory swimming pools, open and unenclosed, may occupy a required rear or side yard, provided that they are not located closer than five feet to a rear lot line or 10 feet to an interior side lot line. A walk space at least three feet wide shall be provided between pool walls and protective fences or barrier walls.

801.1 Uses customarily accessory to dwellings

- a. Private detached garage not to exceed the following storage capacities:

one or two-family dwelling -- four (4) automobiles; multi-family dwelling -- two (2) automobiles per dwelling unit;
group dwelling -- 1.5 automobiles per sleeping room.
- b. Open storage space or parking area for motor vehicles provided that such space does not exceed the maximum respective storage capacities listed above; and provided that such space shall not be used for more than one (1) commercial vehicle licensed as one ton or less in capacity per family residing on the premises.
- c. Shed or tool room for the storage of equipment used in grounds or building maintenance.
- d. Children's playhouse and play equipment.
- e. Quarters for the keeping of pets owned by occupants for noncommercial purposes provided that such use does not generate a nuisance to adjoining properties.
- f. Private swimming pool and bath house or cabana.
- g. Structures designed and used for purposes of shelter in the event of manmade or natural catastrophes.
- h. Noncommercial greenhouse or slat house.
- i. Satellite communication dishes, which shall be erected upon the principal structure or located only in the side or rear yard.

801.2 Uses customarily accessory to church buildings

- a. Education buildings.
- b. Parsonage, parsonium, or parish house, together with any use accessory to a dwelling as listed above.
- c. Off-street parking area for the use without charge of members and visitors to the church.
- d. Cemeteries when the minimum acreage assigned to the cemetery is three (3) acres or more.
- e. Family-Life exercise facilities/day-care facilities.
- f. Columbariums.

(Note: A retail thrift store is a commercial use and not considered accessory to any church.)

801.3 Uses customarily accessory to retail business, office uses and commercial recreational facilities

- a. Off-street parking or storage area for customers, clients, or employee-owned vehicles.
- b. Completely enclosed building for the storage of supplies, stock, or merchandise.
- c. Light manufacturing and/or repair facility incidental to the principal use provided that dust, odor, smoke, noise, vibration, heat, or glare produced as a result of such manufacturing or repair operation is not perceptible from any boundary line of the lot on which said principal and accessory uses are located and provided such operation is not otherwise specifically prohibited in the district in which the principal use is located.

801.4 Uses customarily accessory to public uses, buildings, or activities

There shall be no limitations regarding accessory uses to any use, building, or activity operated within the public domain except that such uses, buildings, or activities must be directly related and subordinate to the principal public use.

Section 802 Off-street Parking

Adequate off-street parking areas per lot shall hereafter be required in all zone districts. These parking areas have to be in place before a Certificate of Occupancy is issued. Regardless if the site is new construction, alterations or additions that increases, floor area, dwelling units, seating or bed capacity, or causes a change in use. All spaces shall be a minimum of 166.5 square feet

with dimensions of nine (9) feet by 18.5 feet. All off street parking areas shall have direct access to a street or alley and shall be provided and maintained in accordance with the following requirements. Parking to serve single-family detached dwellings and other residential dwelling types shall be confined to specific driveway areas. Parking in areas of the lot otherwise dedicated as yard area is prohibited.

TABLE 6-1-4
MINIMUM NUMBER OF OFF-STREET PARKING SPACES REQUIRED

Use	Parking Spaces Required (Per Gross Floor Area Devoted to the Use, or Per Employee on Largest Shift, Except as Otherwise Specified)
COMMERCIAL USES	
Art gallery	One per 400 square feet
Auto parts store	One per 400 square feet plus one per employee
Automobile sales	One per employee, plus one per 150 square feet of repair space, plus one per 600 square feet of showroom
Bank, credit union, savings and loan	One per 200 square feet
Barber shop or beauty parlor	One and one-half per operator's chair, plus one per employee
Bed and breakfast inn/home	Two for the owner-operator plus one per guest bedroom
Billiard hall/ amusement arcade	One per 200 square feet
Bowling alley	Two for each alley, plus one per each employee
Convenience store	One per 250 square feet plus one per employee
Dance hall or school	One space per 150 square feet
Funeral home or mortuary	One per four seats, plus one per two employees, plus one for each hearse, ambulance, or company vehicle
Furniture, carpet, appliance and home furnishing store	One per 1,000 square feet plus one per employee and one per delivery truck
Grocery or food store	One per 200 square feet
Hardware store	One per 400 square feet plus one per employee
Health or fitness club	Ten plus one per each 250 square feet over 1000 square feet
Hotel or motel	One per guest room, plus one per employee, plus one per specified requirements for restaurants and meeting rooms as applicable
Kennel	One per 400 square feet, plus one per employee
Laundromat	One per each two washer/dryer combinations
Motor Vehicle, service and repair	Three per service bay
Nursery or greenhouse	One per 1,000 square feet devoted to sales
Office	One per 300 square feet
Photographic studio	One per 400 square feet
Restaurant, bar, or tavern	One per 100 square feet
Retail Store, General Merchandise	One per 250 square feet
Self storage facility (mini-warehouse)	One per facility manager, plus one per each forty storage units, with two spaces total minimum

Use	Parking Spaces Required (Per Gross Floor Area Devoted to the Use, or Per Employee on Largest Shift, Except as Otherwise Specified)
Service station	(See "motor vehicle")
Shopping center	Four and one-half spaces per 1000 square feet.
Theater, cinema	One per three fixed seats
Veterinarian, Animal hospital	Four per practitioner
INDUSTRIAL USES	
Manufacturing, processing, assembling	Two per three employees
Warehouse	One per two employees or one per 1,500 square feet, whichever is greater
Wholesale merchandise	One per 2,000 square feet
INSTITUTIONAL USES	
Church, temple, synagogue and place of worship	One per four seats in room with greatest seating capacity
Day care center	One per employee, plus one per eight children, plus one space for each vehicle associated with facility
Government office	One per 300 square feet
Hospital	One per four beds, plus one per two employees
Library or museum	One per 300 square feet
Nursing home; Assisted Living	One per three patient beds + one per two employees
Post office	One per 200 square feet
School - elementary	One per employee plus one additional per 10 employees
School - middle	One per ten students or one per five seats in auditorium or main assembly area, whichever is greater
RESIDENTIAL USES	
Apartment, one bedroom	One per unit
Apartment, two bedroom	Two per unit
Apartment, three bedroom	Two per unit
Boarding or rooming house	One (1) space for each two (2) guest rooms, plus two (2) additional spaces for the owners, if resident on the premises
Residence containing a non-residential use	One per unit
Single family detached or attached	Two per unit
Two family dwelling	Two per unit
Senior Housing	One per unit
RECREATIONAL USES	
Amusement park	Per parking generation study funded by applicant and approved by the Director
Assembly hall or auditorium	One per four fixed seats, or one per 150 square feet of seating area, whichever is less
Basketball court	Five per court
Billiard hall	Two per table

Use	Parking Spaces Required (Per Gross Floor Area Devoted to the Use, or Per Employee on Largest Shift, Except as Otherwise Specified)
Community center	One per 250 square feet
Country club	One per four hundred (400) square feet of gross floor area. Plus one and one-half per hole for golf course, two (2) per tennis court, and one (1) per one hundred (100) square feet of surface for swimming pools
Golf course	Three per hole
Golf driving range, principal use	One for every tee
Miniature golf	Two per hole
Skating rink	One per 250 square feet
Stadium or sport arena	One per twelve feet of bench seating
Swimming pool – subdivision amenity	One per 150 square feet of surface water area
Swimming pool – public	One per 100 square feet of surface water area
Tennis or racquet ball court	Three spaces per court

Section 803 Parking, Storage, or Use of Boats and Recreational Vehicles

No major recreational equipment such as boats, travel trailers, and recreational vehicles shall be parked or stored on any lot in a residential district except in a carport or enclosed building or behind the nearest portion of a building to a street, provided, however, that such equipment may be parked anywhere on residential premises for a period not to exceed twenty-four (24) hours during loading or unloading. Such equipment shall observe all setbacks, yard and other requirements set forth within the residential districts in which they are located. No such equipment shall be used for living, sleeping, or housekeeping purposes when parked or stored on a residential lot, or in any location not approved for such uses.

Section 804 Parking and Storage of Certain Vehicles

No motor vehicles or trailers of any kind or type without current license plates shall be parked or stored on any residentially-zoned property other than in completely enclosed buildings.

Section 805 Off Street Loading/Unloading Requirements.

805.1 Location.

- a. All required loading berths shall be located on the same lot as the use served, except when collectively provided at central loading facilities.
- b. No permitted or required loading berth shall be located within twenty-five (25) feet of the nearest point of intersection of any two streets.
- c. No loading berth shall be located so as to hinder the free movement of vehicles or pedestrians over a street, sidewalk, or alley.

805.2 Submission of a Loading Plan. A fully-dimensioned loading plan shall accompany a permit application for any use required to provide off-street loading berth(s).

805.3 Use of Loading Berth. A loading berth shall be used for the purpose of loading or unloading only. No motor vehicle repair work or service of any vehicles, equipment, materials or supplies shall be permitted in conjunction with loading facilities provided in all districts. Off-street loading areas shall be maintained in a clean, orderly condition at the expense of the owner or lessee. Space allocated to any off-street loading berth shall not be used to satisfy the space requirements for any off-street parking facilities or portion thereof.

805.4 Size. Unless otherwise specified, a required loading berth shall be a minimum of twelve (12) feet in width and forty (40) feet in length, exclusive of aisle and maneuvering space, and shall have a minimum vertical clearance of fourteen (14) feet.

805.5 Surfacing. All open off-street loading berths shall be surfaced with either gravel, asphalt or concrete materials capable of bearing a live load of two hundred (200) pounds per square foot.

805.6 Drainage. Off-street loading facilities shall be drained to eliminate standing water and prevent damage to abutting properties and/or public streets and alleys.

805.7 Off-Street Loading Standards. The required number of off-street loading berths are shown in below. If the gross floor area of a use is less than the minimum requirement of one (1) berth, such use shall provide adequate receiving facilities off any adjacent alley, service drive, or open space on the same lot which is accessible by motor vehicle.

Every building or structure used for business, trade for industry shall provide space as indicated herein for the loading and unloading of vehicles off the street or public alley. Such space shall have access to an alley or if there is no alley, to a street. 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.

- a) Retail Business and Services. One space for each 20,000 square feet of total floor area or fraction thereof.
- b) Wholesale and Industry. One space twelve (12) feet by fifty (50) feet for each 10,000 square feet of floor area plus one additional space for each 60,000 additional square feet of total floor area or fraction thereof.
- c) Bus and Truck Terminals. Sufficient space to accommodate the maximum number of busses or trucks to be stored or to be loading or unloading at the terminal at any one time.

Section 806 Temporary Uses

806.1 Temporary Uses. The Building Inspector is authorized to issue a Temporary Certificate of Zoning Compliance for temporary uses, as follows:

-
- a. Carnival, circus, or fair, for a period not to exceed twenty-one (21) days, with the location subject to the approval of the City Council.
 - b. Religious meeting in a tent or other temporary structure in C-2 Districts, for a period not to exceed sixty (60) days.
 - c. Open lot sale of Christmas trees, fruit and vegetables, and other harvested products in the C-2 District for a period not to exceed forty-five (45) days.
 - d. Real estate sales office, in any district, for a period not to exceed one (1) year, provided no cooking or sleeping accommodations are maintained in the structure.
 - e. Contractor's office and equipment sheds, in any district, for a period of one (1) year, provided that such office be placed on the property to which it is appurtenant.
 - f. Festivals and special events for a period not to exceed twenty-one (21) days with the location subject to the approval of the Mayor and Council.

**ARTICLE IX
SPECIAL EXCEPTIONS FOR PLANNED DEVELOPMENTS**

Section 900 Purpose

The City officials concerned with property development shall take into account that it is increasingly difficult to forecast the various conditions and factors that may be encountered in sizable developments and that certain latitude, flexibility, and freedom in the execution of the design and layout of a project should be suggested or otherwise permitted so as to encourage and provide amenities which are unique to the community. The purpose of a PD-Planned Development District is to provide for an area that offers a maximum choice of living environments by allowing:

- A. A variety of housing and building types and permitting an increased density per acre and a reduction in lot dimensions, yards, building setbacks, and area requirements without need for a separate variance;
- B. A more useful pattern of open space and recreation areas and, if permitted as part of the project, more convenience in the location accessory commercial uses and services;
- C. A development pattern which preserves and utilizes natural topography and geologic features, scenic vistas, trees and other vegetation, prevents the disruption of natural drainage patterns;
- D. A more efficient use of land than is generally achieved through conventional development;
- E. A development pattern in harmony with land use density, transportation facilities, community facilities, and objectives of the Comprehensive Plan.

Planned developments shall be encouraged, but they shall conform to the regulations of this Zoning Ordinance or to the following modifications of the regulations found elsewhere in this Zoning Ordinance.

Section 901 General

Planned developments may be residential, commercial, or industrial developments, or any combination. The minimum site area for a residential development shall be five acres, three acres for a commercial development, and 20 acres for an industrial development. If a combination of uses is proposed, a minimum area shall be 20 acres. In combination developments, the amount of land devoted to commercial usage shall not exceed 8 percent of the total land area. Not more than 12 percent of the total land area shall be devoted to industrial activities.

Section 902 Planned Development Standards (PD)

Section 902.1 Residential Planned Developments

Residential planned developments may be developed subject to the following provisions:

- A. **Minimum Lot Sizes and Height Requirement**
 - 1. Lot area per dwelling unit may be reduced to not less than 70 percent of the minimum lot area requirements of the average of all adjacent residential zoning districts. A diversification of lot sizes is encouraged. Gross density within the size area shall not exceed 19 dwelling units per acre.
 - 2. Lot widths may be varied to allow for a variety of structural designs. It is also recommended that setbacks be varied.
 - 3. Height requirements shall be as determined by surrounding uses and the nature of the proposed use.
- B. **Lots to Abut upon Open Space**

Every property developed under the planned development approach should be designed to utilize common open space or similar areas within its design. A clustering of dwellings is encouraged. In areas where townhouses are used, there shall be no more than eight (8) townhouse units in any contiguous group.

Section 902.2 Commercial Planned Developments (PD)

The following provisions shall apply for Commercial PD:

- A. Commercial buildings and establishments shall be planned as groups having common parking areas, and common ingress and egress points, in order to reduce the number of potential accident locations at intersections with thoroughfares. Planting screens or fences shall be provided on the sides of the development abutting areas occupied or likely to be occupied by residences.
- B. The plan of the project shall provide for the integrated and harmonious design of buildings, and for adequate and properly arranged facilities for internal traffic circulation, landscaping, and such other features and facilities as may be necessary to make the project attractive and efficient from the standpoint of the adjoining and surrounding existing or potential developments.
- C. All areas designed for future expansion or not intended for immediate improvement shall be landscaped or otherwise maintained in a neat and orderly manner as specified in this Zoning Ordinance.
- D. Off-street parking, loading and service areas shall be provided in accordance with this Zoning Ordinance. However, off street parking and loading areas shall not be permitted within 15-feet of any residential use.

-
- E. Open space gained through the varying of the setback and area requirements as established in Section 1003.1 of this Zoning Ordinance is to be used for the development of open plazas, pedestrian malls, tot lots, and other public spaces and uses with adequate arrangement, design, and planting.

Section 902.3 Industrial Planned Developments (PD)

The following provisions shall apply for industrial PD:

- A. Planned development of industrial establishments is encouraged by varying the setback and other requirements if it can be shown that the development results in a more efficient and desirable use of land.
- B. Uses and parcels shall be developed in park-like surroundings utilizing landscaping and existing woodlands as buffers to screen lighting, parking areas, loading areas or docks and/or outdoor storage of raw materials or products. A planned industrial area shall provide for the harmony of buildings and a compact grouping in order to economize in the provision of such utility services as are required. Thoroughfares shall be kept to a minimum throughout a planned industrial area in order to reduce through traffic.
- C. Project side yards of 40 feet and a rear yard of 50 feet shall be required if the project is located adjacent to any residential development. All intervening spaces between the right-of-way line and project building line and intervening spaces between buildings, drives, parking areas, and improved areas shall be landscaped with trees and plantings and properly maintained at all times.

Section 903 General Requirements

Section 903.1 Common Open Space

- A. A minimum of 20 percent of the land developed in any planned development project shall be reserved for common open space and recreational facilities for the residents or uses of the area being developed.
- B. The required amount of common open space land reserved under a planned development shall be held in corporate ownership by owners of the project area for the use of each owner who buys property within the development and retained as common open space for parks, recreation, and related uses.
- C. Public utility and similar easements and rights-of-way for water courses and other similar channels are not acceptable for common open space dedication unless such land or right-of-way is usable as a trail or other similar purpose and approved by the Mayor and Council.
- D. The responsibility for maintenance of all open space shall be specified by the developer before approval of the final development plan.

Section 903.2 Submittal

A planned development plan shall be reviewed by the Building Inspector and the Planning Commission and shall be referred to the Mayor and Council for public hearings. Notice and publication of such public hearings shall conform to the procedures prescribed in Appendix A of this Zoning Ordinance for hearings on rezonings or annexations.

Section 903.3 Preliminary Plan

In order to determine that the planned development meets all requirements, the developer shall furnish a preliminary plan drawn to scale for the entire tract showing the following:

- A. The proposed general lot layout, existing building locations, and general land use areas, at a scale approved by the Building Inspector.
- B. Proposed traffic circulation, parking areas, common open space areas, pedestrian walks, and landscaping.
- C. Proposed construction sequence for buildings, parking spaces, and landscaped areas.
- D. Proposed phasing of the entire project including estimated time frames for each phase.

Section 903.4 Final Development Plan

- A. The owner/developer shall submit a final development plan to the Mayor and Council together with the application for a change of district classification, if applicable, once the preliminary plan has been approved by the Planning Commission. The development plan shall be prepared by an architect, landscape architect, engineer, or planning consultant and shall include the following information drawn at a scale approved by the Planning Commission.
 - 1. Survey of the property showing existing features of the property including contours, buildings, structures, trees over eight (8) inches in trunk diameter, streets, utility easements, rights-of-way, and land use.
 - 2. Site plan showing proposed building locations and land use areas.
 - 3. Traffic circulation, park areas, open space areas, and pedestrian walks.
 - 4. Landscaping plans including site grading and landscape design.
 - 5. Preliminary drawings for buildings to be constructed in the current phase including floor plans, exterior elevations, and sections.
 - 6. Preliminary engineering plans including street improvements, drainage system, and public utility extensions.

7. Engineering feasibility studies of the anticipated problems which might arise due to the proposed development as required by the Planning Commission.
 8. Construction sequence and time schedule for completion of each phase for buildings, parking spaces, and landscaped areas.
- B. The development plan shall be in general conformance with the approved preliminary development plan. Approval shall be secured by the owner for each phase of the development. Such approval shall be valid for one year, at which time, unless the proposed development has been commenced, the development plan approval shall expire.
1. The expiration of a final development plan approved as a Planned Residential Development shall require resubmittal and re-approval as a new application prior to issuance of any Development Permit within the proposed project.

Section 903.5 Findings Required

The Planning Commission, after determining that all the requirements of the Zoning Ordinance dealing with planned developments have been met, shall recommend approval, approval with modifications, conditions, or disapproval of the development plan. The Planning Commission shall enter its reasons for such action in its record. The Planning Commission may recommend the establishment of a planned development provided that they find the facts submitted with the development establish that:

- A. The uses proposed will not be detrimental to present and potential surrounding uses, but will have a beneficial effect which could not be achieved under any other district.
- B. Any exception from the Zoning Ordinance requirements is warranted by the design and amenities incorporated in the development plan.
- C. Land surrounding the proposed development can be planned in coordination with the proposed development and that it be compatible in use.
- D. The proposed change to a planned development is in conformance with the general intent of the Comprehensive Plan.
- E. Existing and proposed streets are suitable and adequate to carry anticipated traffic within the proposed district and in the vicinity of the proposed district.
- F. Existing and proposed utility services are adequate for the proposed development.
- G. Each phase of the proposed development, as it is proposed to be completed, contains the required parking spaces, landscape, and utility areas necessary for creating and sustaining a desirable and suitable environment.

-
- H. The proposed planned development and all proposed buildings, parking spaces, and landscape and utility areas can be completely developed within five years of the establishment of the district.

Section 903.6 Permitted Uses

- A. Those uses proposed for inclusion in a planned development shall be limited as follows:
1. Uses for Planned Residential Development designation shall be those as approved by the Mayor and Council.
 2. Uses for Planned Development designation shall be limited to those allowed as permitted uses or conditional uses within the underlying land use designation.
- B. Compatible residential, commercial, industrial, public, and quasi-public uses may be combined provided that the proposed location of the commercial or industrial uses will not adversely affect adjacent property and/or the public health, safety, and general welfare.
- C. The amount of land devoted to commercial and/or industrial use in a residential/commercial/industrial or residential/commercial development shall be determined by the Mayor and Council.

Section 903.7 Acceptance/Revision

- A. Following the recommendation of the Planning Commission and a public hearing, the Mayor and Council may approve, approve with modification, or disapprove the plan, consistent with the intent and meaning of this Zoning Ordinance, and if the plan is approved, may authorize the designation of the property to Planned Development classification permitting the proposal, for development in conformity with the final plan as approved by the Mayor and Council.
1. Developments approved as a Planned Residential Development shall be approved and designated upon the Official Zoning Map.
 2. Developments approved as a Planned Development shall be retained as a master file within the office of the Building Inspector.
- B. After the final development plan has been approved by the Mayor and Council and in carrying out this plan, adjustment or rearrangement of buildings, parking areas, entrances, heights or yards may be requested by the proponents and provided such requests conform to the standards established by the final development plan and this Zoning Ordinance, such adjustments or rearrangements may be authorized by the Planning Commission. The City staff upon receiving a proposed revision shall determine whether density increases or substantial relocation of land use types within the development are proposed. If so, a public hearing per the process established by the Zoning Procedures and Standards Ordinance shall be required to publicly review the proposal prior to any final action.

ARTICLE X
ADMINISTRATION, ENFORCEMENT, APPEAL, COMPLAINTS, AND REMEDIES

Section 1000 Administration and Enforcement

It shall be the duty of the duly appointed Building Inspector to administer and enforce the provisions of this Ordinance.

If the Building Inspector shall find that any of the provisions of this Ordinance are being violated, he shall notify in writing the person responsible for such violations, indicating the nature of the violation and ordering the action necessary to correct it. He shall order discontinuance of illegal use of land, buildings, or structures; removal of illegal buildings or structures or of illegal additions, alterations, or structural changes, discontinuance of any illegal work being done; or shall take any other action authorized by the Ordinance to ensure compliance with or to prevent violation of its provisions. The East Ellijay Building Inspector or any duly authorized East Ellijay Police Officer, or the lawful designee of any such person, shall have the authority to issue citations for violations of this ordinance.

Section 1001 Fees.

A schedule of permit, application, and/or use fees, as adopted from time to time by the East Ellijay Mayor and Council, shall be attached hereto as **Appendix "B."**

Section 1002 Permit.

It shall be unlawful to commence the excavation or filling of any lot for the construction of any structure, sign or accessory structure, or to commence construction of any structure, sign or accessory structure, or to commence the moving or alteration of any structure, sign or accessory structure, or to commence the development or improvement of land for a use not requiring a structure, sign or accessory structure until the East Ellijay Building Inspector or designee has issued a permit for all such work relating both to uses permitted upon the lot or parcel and for any structure(s), sign(s) proposed thereon. Further, it shall be unlawful to excavate, fill, or modify any lot to serve a proposed land use that is not allowed by the zone district where the lot is located.

Section 1003 Owner, Occupant, or Tenant May be Cited.

An owner, as shown by the records of the Gilmer County Tax Assessor's Office, or any occupant, tenant, or other person in lawful possession of any lot, parcel, or premises determined to be in violation hereof may be cited therefore.

Section 1004 Continuing Violation.

Any violation of this ordinance shall be considered a continuing violation, subject to separate citation each day in which such violation remains.

Section 1005 Penalties for Violation.

Pursuant to *OCGA §36-1-20(b)*, any person convicted of violating this ordinance or any provision thereof shall be sentenced to a maximum fine of one thousand dollars (\$1,000) or imprisonment for a term of sixty (60) days, or both.

Section 1006 Remedies - Injunctive Relief.

When any structure or accessory structure which is erected, constructed, re-constructed, altered, repaired, converted or maintained; or any structure, accessory structure, land use, or land condition violates any portion of this ordinance, the East Ellijay Building Inspector or designee may seek injunctive or other equitable relief in any court of competent jurisdiction. Such remedy shall be in addition to, and not in lieu of, any similar remedy which adjacent or neighboring property holders may already have pursuant to the laws of Georgia and shall have no effect thereon.

Section 1007 Remedies - Effect of Non-Compliance; Notice and Hearing before Mayor and Council.

In addition to any other remedies provided hereunder, so as to promote the health, morals, safety, and general welfare of the residents of East Ellijay, if the owner, occupant, tenant, lessee, and/or any other person in lawful possession of any lot, parcel, or premises shall fail to maintain such parcel in conformity with the provisions of this ordinance, the East Ellijay Building Inspector, if he or she shall choose to proceed pursuant to the purview of this section, shall notify in writing all such person(s), specifically including, but not limited to, the owner of record, as may be reasonably determined by records contained in the Gilmer County Tax Assessor's Office, by certified mail, return receipt requested, that such person(s) shall have thirty (30) days from receipt of such notice in which to bring such lot, parcel, or premises into conformity with the provisions of this ordinance. If such notice shall be returned "unclaimed" or is otherwise undeliverable, then notice by publication, in a local paper of circulation, once a week for four (4) consecutive weeks shall constitute due and proper notice as of the date of the fourth publication. Notice, whether by mail or by publication, shall advise with reasonable specificity the condition(s) which do not comply with the provisions of this ordinance. Such notice shall further advise that if no response is forthcoming within thirty (30) days, the East Ellijay Building Inspector shall cause such matter to be placed upon the agenda of the next regularly scheduled meeting of the East Ellijay Mayor and Council for public hearing. At such hearing, the Ellijay Building Inspector shall advise the Mayor and Council of the unlawful condition(s) thereon and then the Council shall hear any other person(s) wishing to address the Council with regard to the condition of the lot, parcel, or premises. The Mayor and Council shall then determine whether the City of East Ellijay shall cause such condition(s) to be brought into compliance with the provisions of this ordinance, as the particular facts may warrant, and whether it shall cause the costs of such efforts by East Ellijay to be charged against the lot or parcel upon which the condition existed as a real property lien and/or cause to be levied as a special tax against the land upon which such conditions existed and/or to recover such costs in an action at law against the owner of such lot or parcel.

Section 1003 Conflict with Other Laws.

Whenever the regulations of this ordinance require a greater width or size of yards, building, or smaller number of stories, or require a greater percentage of a lot to be left unoccupied, or impose other more restrictive standards than are required in or pursuant to any other statute, law, rule, or regulation, the requirements of this ordinance shall govern. Whenever the provisions of any other statute require more restrictive standards than are required by this ordinance, the provisions of such statute shall govern.

Section 1009 Separability.

Should any Section or provision of this ordinance be declared by any court of competent jurisdiction 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.

Section 1010 Repeal of Conflicting Ordinances.

All ordinances and parts of ordinances in conflict herewith are repealed.

Section 1011 Certificate of Occupancy

It shall be unlawful to use or occupy or permit the use or occupancy of any building or premises, or both, or parts thereof hereafter created, erected, changed, converted, or wholly or partly altered or enlarged in its use or structure until a Certificate of Occupancy shall have been issued therefore by the Building Inspector stating that the proposed use of the building or land conforms to the requirements of this Ordinance and other Codes and Ordinances adopted by the City.

No nonconforming structure or use shall be changed, or extended, until a Certificate of Occupancy shall have been issued by the Building Inspector.

No permit for erection, alteration, moving, or repair of any building shall be issued until an application for a period not exceeding six (6) months during alterations or partial occupancy of a building pending its completion, provided that such temporary certificate may include such conditions and safeguards as will protect the safety of the occupants and the public.

Section 1012 Expiration of Land Use Permit

If the work described in any land use permit has not begun within six (6) months, with the exception of a Planned Development permit, from the date of issuance thereof, said permit shall expire; it shall be cancelled by the Building Inspector, and written notice thereof shall be given to the persons affected.

Section 1013 Appeal from the Decision of the Building Inspector

It is the intention of this Ordinance that all questions arising in connection with the enforcement of the Ordinance shall be presented first to the Building Inspector and that on appeal from the decision of the Building Inspector, such questions shall be presented to the Board of Appeals.

ARTICLE XI

BOARD OF ZONING APPEALS

Section 1100 Establishment of Board of Zoning Appeals

A Board of Zoning Appeals is hereby established. Said Board shall consist of three members, who shall be citizens of the City, none of whom shall hold any other public office or position in the city or county except that one member may also serve on the Planning Commission. They shall be appointed by the City Council for terms of four (4) years.

Section 1101 By-laws and Procedures.

The Board of Zoning Appeals shall elect a chairman who shall serve for one complete four (4) year term. The Board shall appoint a nonvoting secretary, who may be a City Officer, an employee of the City or a member of the Planning Commission. The Board shall meet at the call of the chairman and at such other times as the Board may determine. All meetings of the Board shall be open to the public.

Section 1102 Decisions of the Board of Appeals

The concurring vote of two (2) members of the Board of Appeals shall be necessary to reverse any order, requirement, decision, or determination of the Building Inspector, or to decide in favor of the applicant on any matter upon which it is required to pass under this Ordinance or to affect any variation of the Ordinance. The Board shall keep minutes of its proceedings, showing the vote of each indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the Board and shall be a public record. On all appeals, applications, and matters brought before the Board of Appeals, the Board shall inform in writing all the parties involved of its decisions and the reasons therefore.

Section 1103 Appeals, Hearings, and Notices

Appeals to the Board may be taken by any person aggrieved or by any officer, department, board, or bureau of the municipality or County. Such appeal shall be taken within fourteen (14) days from the date of the Building Inspector's notification or as provided by the rules of the Board by filing written appeal with the office of the Building Inspector or the office of the City Clerk. The Building Inspector shall forthwith transmit to the Board all papers constituting the record upon which the action appealed from was taken.

An appeal stays all legal proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the Board, after the notice of appeal shall have been filed with him, that by reason of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life and property. In such case, proceedings shall not be stated otherwise than by a court of record on application, on notices to the officer from whom the appeal is taken, and on due cause shown.

The Board shall fix a reasonable time for the hearing of the appeal or other matter referred to it, and give at least fifteen (15) days public notice of the purpose, time, and place, which shall be published in the newspaper of general circulation in the city of East Ellijay. Similarly, the affected property shall be posted. At the hearing any party may appear in person or by agent or by attorney.

The Board of Appeals shall decide the issues before them within a reasonable time, but not later than 30 days from the date of the scheduled public hearing, unless the production of evidence or testimony is unduly delayed, in which case, 60 days from the date of the public hearing.

Section 1104 Powers and Duties of the Board of Appeals

The Board of Zoning Appeals shall have the following powers and duties:

1104.1 **Administrative Review:** To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by the Building Inspector in the enforcement or interpretation of this ordinance.

1104.2 **Variances:** To authorize, upon appeal, in specific cases a variance from the terms of the Ordinance as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of the ordinance will, in an individual case, result in unnecessary hardship, so that the spirit of the Ordinance shall be observed, public safety and welfare secured, and substantial justice done. Such variance may be granted in such individual case of unnecessary hardship upon a finding by the Board of Appeals that all of the following conditions exist:

- a. there are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape, or topography;
- b. the application of the Ordinance to this particular piece of property would create an unnecessary hardship;
- c. such conditions are peculiar to the particular piece of property involved; and
- d. relief, if granted, would not cause substantial detriment to the public good or impair the purpose and intent of the Ordinance, provided, however, that no variance may be granted for a use of land or building or structure that is prohibited in a given district by the Ordinance nor can a variance be granted to increase the density established by the Ordinance (i.e., cannot make lots smaller nor increase units per acre/lot).

1104.3 **Special Exceptions:** To decide on other matters where a decision of the Board of Appeals may be specifically required by the provisions of this Ordinance. In exercising these powers, the Board of Appeals may, in conformity with the provision of this act, reverse or affirm, wholly or in part, or may modify the order, requirements,

decision, or determination, and to that end shall have all powers of the officer from whom the appeal is taken and may issue or direct the issuance of a permit. The Board, in the execution of the duties for which appointed, may subpoena witnesses and in case of contempt may certify such fact to the Superior Court.

Section 1105 Appeals from Decisions of Board of Appeals

Any person aggrieved by any decision of the Board of Appeals shall take an appeal to the Superior Court within thirty (30) days after the decision of the Board is rendered. Should the appellant wish to appeal the Board's decision, he/she must do so by Writ of Certiorari directly to the Superior Court of Gilmer County. There shall be no appeal to the Mayor and Council of East Ellijay.

ARTICLE XII

AMENDMENTS

Section 1200 Authority

This Ordinance, including the Official Zoning Map, may be amended from time to time by the City Council as herein specified, but no amendment shall become effective unless it shall have been proposed by or shall first have been submitted to the Planning Commission for review and recommendation per the Zoning Procedures and Standards Ordinance.

Section 1201 Requirements for Change

When the public necessity, convenience, general welfare, or good zoning practice justify such action, and after the required review and report by the Planning Commission, the City Council may undertake the necessary steps to amend the Zoning Ordinance. However, that action shall not be initiated for a zoning amendment affecting the same parcel or parcels of property or any part thereof more often than once every twelve (12) months.

Section 1202 Procedure for Amendments

Requests to amend the Zoning Ordinance shall be processed in accordance with the following requirements:

1202.1 Application Procedure. Application forms for amendment requests shall be obtained from the Building Inspector. Completed forms, together with an application fee to cover administrative costs, plus any additional information the applicant feels to be pertinent, will be filed with the Building Inspector. Any communication purporting to be an application for an amendment shall be regarded as a mere notice to seek relief until it is made in the form required.

Applications for amendments must be submitted in proper form at least three (3) weeks prior to a Planning Commission meeting in order to be heard at that meeting.

Application fees shall be forwarded by the Building Inspector to the City Clerk who shall supervise the application of same to the costs of advertising and other administrative expenses.

1202.2 Public Hearings, Public Notice, and Official Action All public hearings, public notices, and official actions shall be governed by the "East Ellijay Zoning Procedures and Standards Ordinance" located in Appendix "A" of this Zoning Ordinance.

ARTICLE XIII

DEFINITIONS

Section 1300 Interpretation of Certain Terms or Words

Except as specifically defined herein, all words used in this Ordinance have their customary dictionary definitions. Any word not defined elsewhere in the Zoning Ordinance shall be as defined in Webster's New World Dictionary of the American Language – Second College Edition. The said definition to be read in context with the purposes and provision of the part of the Ordinance it is being used to define. For the purpose of this Ordinance, certain words or terms used herein are defined as follows:

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

The word "shall" is always mandatory. The word "may" is permissive.

The word "lot" includes the word "plot" or "parcel". The word "structure" includes the word "Building".

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

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" or "zoning map" shall mean the Official Zoning Map of the City of East Ellijay, Georgia, and may include a series of maps in sections.

The term "Planning Commission" refers to the East Ellijay Municipal Planning Commission.

The term "Building Inspector" refers to the person subsequently and specifically designated by the Council and so employed as the Building Inspector for the City of East Ellijay or authorized representative of that office.

The term "Board of Appeals" refers to the Board of Zoning Appeals of the City of East Ellijay.

The term "City Clerk" refers to the City Clerk of East Ellijay or authorized representative of that office.

The terms "Council", "City Council", or "Mayor and Council" refer to the legally constituted and elected governing body of the City of East Ellijay.

Abandoned property: Wrecked or derelict property having no value other than nominal salvage value, if any, which has been left abandoned and unprotected from the elements and shall include wrecked, inoperative, or partially dismantled motor vehicles, trailers, boats, machinery, refrigerators, washing

machines, plumbing fixtures, furniture, and any other similar article which has no value other than nominal salvage value, if any, and which has been left abandoned and unprotected from the elements.

Abutting: Having property lines in common, or having property separated by only an alley. Separation by a street right-of-way is not considered abutting.

Accessory building or structure: A building or structure subordinate to the principal building or use on a lot and used for purposes incidental to the principal building or use and located on the same lot therewith.

Accessory use: A use of the land or building or portion thereof customarily incidental and subordinate to the principal use and located on the same lot with such principal use.

Agriculture: The commercial cultivation or growth from or on the land of horticultural, floricultural, forestry, dairy, livestock, poultry, and apiarian products.

Alley: A secondary way which affords access to the side or rear of abutting property.

Alteration of Building: Any change in the supporting members of a building (such as bearing walls, columns, or girders), any addition or reduction to a building; any change in use; or any relocation of a building from one location or position to another.

Apartment building: A building designed for or occupied exclusively by three (3) or more households with separate housekeeping facilities for each household.

Assisted living facility/Congregate personal care facility: A building or group of buildings that provide rooms, meals, personal care, and supervision of self-administered medication. They may provide other services incidental to the above. For purposes of this ordinance, assisted living facilities are considered institutionalized residential living and care facilities.

Bed and breakfast home: A single family dwelling occupied by the owner as his/her principal residence that offers transient lodging accommodations and breakfast for compensation provided that; the rental occupants shall not reside at the bed and breakfast for more than seven (7) consecutive days; breakfast is the only meal served and only to the registered overnight guests; no person not a resident on the premises is employed; the exterior appearance of the dwelling is not altered from its residential character except for safety purposes; and, the identification sign shall be no larger than two (2) square feet and not internally lighted.

Bed and breakfast inn: A building, not necessarily owner-occupied, that offers transient lodging accommodations and breakfast for four (4) or more guest rooms for compensation provided that there is compliance with the same licensing, inspection and taxation requirements as hotels, motels, and restaurants; if within a residential district, the building shall be residential in character; breakfast is the only meal served and only to overnight guests; the owners may have employees; the owner shall provide one (1) off-street parking space for each rental room and one (1) space for each employee; and, in a residential district, signage shall be limited to one (1) sign and maximum size of two (2) feet.

Berm: An earthen mound or embankment, usually two to six feet in height, designed to provide visual interest, screen views, reduce noise, or fulfill other such purposes.

Boarding house: A building, where for compensation, both lodging and meals are provided for not more than ten (10) persons, providing that a single-family dwelling shall not be deemed to be a boarding house by reason of a contribution to or expense sharing arrangement with the owner or tenant occupying the dwelling by a person related by blood or marriage.

Buffer: A natural or enhanced vegetated area usually intended to screen and separate incompatible uses. The buffer may contain a barrier such as a berm, wall, or fence.

Building: A structure which is completely enclosed by a roof and by exterior walls along whose outside faces can be traced an unbroken line for the complete circumference of the structure, which is permanently affixed to a lot or lots, and used or intended for the shelter, support, or enclosure of persons, animals, or property of any kind.

Buildable area: The portion of a lot which is not located within any minimum required yard, landscape strip/area or buffer; that portion of a lot wherein a building or structure may be located.

Building height of: The vertical distance measured from the grade to the highest point of the coping of a flat roof; to the deck lines of a mansard roof; or to the mean height level between the eaves and ridge of a gable, hip or gambrel roof. Grade is defined as the average elevation of the ground on all sides of a building.

Building Principal: A building in which is conducted the principal use of the lot on which said building is situated.

Building setback line: A line establishing the minimum allowable distance between the main or front wall of a principal building and the street right-of-way line or another building wall and a side or rear property line when measured perpendicularly thereto. Covered porches, whether enclosed or not, shall be considered as a part of the building and shall not project into any required yards. For purposes of this ordinance, a building setback line and minimum required yard shall be considered the same.

Business service establishment: A facility engaged in support functions to establishments operating for a profit on a fee or contract basis, including but not limited to: advertising agencies, photocopying, blueprinting and duplication services, mailing agencies, commercial art and graphic design; personnel supply services and employment agencies, computer and data processing services, detective, protective, and security system services, accounting, auditing, and bookkeeping services, publications and business consulting firms, food catering, interior decorating, and locksmiths

Cemetery: A place for the burial of the dead, including a mausoleum but not including a columbarium.

Child Care Facility: See "Day Care Facility or Day Care Home, Family."

Church: A building or structure, or groups of buildings or structures, that by design and construction is primarily intended for conducting organized religious services. Associated accessory uses include but

are not limited to: schools, meeting halls, indoor and outdoor recreational facilities, day care, counseling, homeless shelters, and kitchens.

Clinic: An institution or professional office, other than a hospital or nursing home, where persons are counseled, examined, and/or treated by one or more persons providing any form of healing or medical health service. Persons providing these services may offer any combination of counseling, diagnostic, therapeutic or preventative treatment, instruction, or services, and which may include medical, physical, psychological, or mental services and facilities for primarily ambulatory persons. A clinic allows lodging and care in cases of medical necessity.

Club, private: A building or premises used for associations or organizations of an educational, fraternal, or social character, not operated or maintained for profit. Representative organizations include Elks, Veterans of Foreign Wars, and Lions. The term shall not include casinos, nightclubs, bottle clubs, or other establishments operated or maintained for profit.

Cluster Development: A change from the conventional pattern of subdivision development which groups housing units into relatively tight units while providing a unified network of open space. A variety of housing types may be utilized in clusters, including single-family, town houses, and condominiums.

Columbarium: A vault with niches for urns containing the ashes of cremated bodies.

Commercial recreational facility, indoor: A use that takes place within an enclosed building that involves the provision of sports and leisure activities to the general public for a fee, including but not limited to the following: assembly halls, auditoriums, meeting halls, art galleries and museums, billiard halls and pool rooms, amusement halls, video arcades, ice and roller skating rinks, fully-enclosed theaters, physical fitness centers and health clubs.

Commercial recreational facility, outdoor: A use of land and/or buildings that involves the provision of sports and leisure activities to the general public for a fee, including but not limited to the following: stadiums, amphitheaters, circuses and carnivals, fairgrounds, drive-in theaters, golf driving ranges, miniature golf courses, batting cages, race tracks for animals or motor-driven vehicles, unenclosed firearms shooting ranges and turkey shoots, trout ponds, equestrian centers and horse and pony riding rinks, botanical and zoological gardens, recreational vehicle parks, ultra-light flight parks, and bungee jumping. A golf course and private club that is built as part of a single-family residential subdivision and that operates in a quasi-public manner is not considered to be an outdoor commercial recreational facility.

Compatibility: With regard to development, the characteristics of different land uses or activities that permit them to be located near each other in harmony and without conflict. With regard to buildings, it implies harmony in appearance of architectural features in the same vicinity.

Conditional Use: A use (sometimes called a "special use") that would not be appropriate generally or without restriction throughout a zoning district but which, if controlled as to number, area, location, or relation to the neighborhood, would not be injurious to the public, health, safety, welfare, morals, order, comfort, convenience, appearance, or general welfare. Such uses may be permitted only in zoning

districts listed in Article VI, if conditional use permits are granted by the Mayor and Council, per the process established by the Zoning Procedures and Standards Ordinance (See Appendix A).

Condominium: A building or group of buildings in which units are typically owned individually, and the structure, common areas and facilities are owned by all the owners on a proportional, undivided basis.

Contractor's establishment: An establishment engaged in the provision of construction activities, including but not limited to, plumbing, electrical work, building, grading, paving, roofing, carpentry, landscaping companies, and other such activities, including the storage of material and the overnight parking of commercial vehicles.

Curb cut: The providing of vehicular ingress and/or egress between property and an abutting public street.

Day Care Home, family: A customary home occupation which provides for six (6) or less persons who are not residents of the premises; care and supervision by a state of Georgia registered resident adult for less than 24 hours per day on a regular basis for compensation.

Day care center: Any place operated by a person, society, agency, corporation, institution or group, and licensed or registered by the State of Georgia and licensed by Gilmer County as a group day care center or day care center, wherein are received for pay for group supervision and care, for fewer than twenty-four (24) hours per day, seven (7) or more persons not residents of the premises.

Density: The permitted number of dwelling units per gross acre of land to be developed.

Development: Any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavating, drilling operations, or permanent storage of materials.

District: The term applied to various geographical areas for purposes of interpreting the provisions of this Ordinance. The districts are designated with the use of symbols on the Official Zoning Map. Regulations controlling land use in the various districts are set forth in Article V Zoning District Schedule. The terms "district" and "zoning district" are synonymous and are used interchangeably throughout this Ordinance.

Dwelling: A building or portion of a building arranged or designed to provide living quarters for one or more families. The terms "dwelling," "dwelling unit," and "residence" are synonymous.

Dwelling, Single-Family Detached: A residential building designed for or occupied exclusively by one (1) family on a single lot. Includes site built houses, manufactured homes, and industrialized homes meeting the Computability Standards of Section 512.

Dwelling, two-family (duplex): A building designed or arranged to be occupied by two (2) families or households living independently of each other.

Dwelling, Group: A building or portion of a building occupied or intended for occupancy by a number of unrelated persons or families, but in which separate cooking facilities are not provided for such resident persons or families. The term "group dwelling" includes but is not limited to the terms rooming house, apartment hotel, nursing home, fraternity or sorority house, Y.M.C.A. or Y.W.C.A. A hotel, motel, or tourist home shall not be deemed to be a group dwelling as herein defined.

Dwelling, Industrialized: Any structure or component thereof which is wholly or in substantial part made, fabricated, formed, or assembled in manufacturing facilities for installation on a building site and has been manufactured in such a manner that all parts or processes cannot be inspected at the installation site without disassembly, damage to, or destruction thereof. Industrialized buildings are constructed and regulated in accordance with the "Industrialized Building Act", Georgia Law 1982 pp. 1637-1643 (Official Code of Georgia Annotated, Title 8, Chapter 2, Article 2, Part 1).

Dwelling, Multiple Family: A building or series of buildings on the same lot or portions thereof used or designed and rented as dwellings for three (3) or more families living independently of each other, with the number of families in residence not exceeding the number of dwelling units provided. The terms "multiple-family" and "multi-family" are synonymous.

Dwelling, Single-Family Attached: A building containing two (2) or more dwelling units, each which is deeded with separate ownership and has primary ground floor access to the outside and which are attached to each other by party walls without openings. Each deeded townhouse unit includes a distinct lot area as part of the ownership.

Dwelling Unit: One or more rooms connected together and constituting a separate, independent housekeeping establishment for use on a basis involving owner occupancy or rental or lease on a weekly, monthly, or longer basis with provision for cooking, eating, and sleeping and physically set apart from any other rooms or dwelling units in the same structure or another structure.

Drive-In: A retail or service enterprise oriented to automobile driving patrons wherein service is provided to the consumer on the outside and/or inside of the principal building. The term "drive-in" includes drive-in restaurants, dairy bars, theaters, banks, and car washes.

Family: One or more persons occupying a single dwelling unit and living as a single household unit.

Fence: An enclosure or barrier, composed of wood, masonry, stone, wire, iron, or other materials or combination of materials used as a boundary, means of protection, privacy screening, or confinement, including brick or concrete walls but not including hedges, shrubs, trees, or other natural growth.

Fence, solid: A fence, including entrance and exit gates where access openings appear, through which no visual images can be seen.

Finance, insurance, and real estate establishment: Such uses include but are not limited to banks, savings and loan institutions and credit unions, security and commodity exchanges, insurance agents, brokers, and service, real estate brokers, agents, managers, and developers, trusts, and holding and investment companies.

Garage, Public Parking: Any garage other than a private garage which is used for storage, minor repair, rental, servicing, washing, adjusting, or equipping of automobiles or other vehicles.

Garage, Private: An accessory building or portion of a principal building used only for the private storage of motor vehicles as an accessory use.

Garage, Repair/General Service. Building and premises designed or used for repairing motor vehicles, provided that body work and painting shall be conducted within fully enclosed buildings and provided further that self-propelled vehicles in process of repair shall be stored in a fully enclosed and secluded area.

Group Home: A dwelling unit housing persons unrelated by blood, marriage, adoption, or guardianship and operating as a single housekeeping unit under a common housekeeping management plan. Such home serves mentally and physically handicapped individuals, drug/alcohol rehabilitation individuals, abused individuals, or terminally ill individuals needing an intentionally structured relationship providing organization and stability.

Guesthouse: A lodging unit for temporary guests in an accessory building. No guesthouse shall be rented or otherwise used as a separate dwelling.

Halfway House: A building for temporary residence by non-related persons, who are recovering from alcohol abuse or other chemical-based substances, with one or more surrogate parents that provide services that include room, meals, supervision, rehabilitation, and counseling to enable residents to move back into society and live independently.

Health spa: An establishment which for profit or gain provides as one of its primary purposes, services or facilities which are purported to assist patrons improve their physical condition or appearance through change in weight, weight control, treatment, dieting, or exercise. The term includes establishments designated as "reducing salons," "exercise gyms," "health studios," "health clubs," and other terms of similar import. Not included within this definition are facilities operated by nonprofit organizations, facilities wholly owned and operated by a licensed physician at which such physician is engaged in the practice of medicine, or any establishment operated by a health care facility, hospital, intermediate care facility, or skilled nursing care facility.

Height: See "Building, height of."

Historic-Architectural Design Review Board is the officially appointed body responsible for protecting historic buildings, gardens, and other environments important to the heritage of the City. The terms "Architectural Review Board" or "Historic Preservation Commission" are synonymous with "Historic-Architectural Design Review Board."

Home Occupation: an occupation carried on entirely within a residence by the occupants thereof, which activity is clearly incidental to the use of the residence as a dwelling and which does not change the residential character thereof, and is conducted in a manner as to not give any outward appearance of a business in the ordinary meaning of the term. This occupation does not infringe upon the right of

neighboring residents to enjoy a peaceful occupancy of their homes for which purpose the residential use district was created and primarily intended.

Impervious surface: A man-made structure or surface, which prevents the infiltration of storm water into the ground below the structure or surface. Examples are buildings, roads, driveways, parking lots, decks, swimming pools, or patios.

Institutional residential living and care facilities: An umbrella term that encompasses the following uses as specifically defined in this ordinance: assisted living facility, intermediate care home, nursing home, and personal care home.

Intermediate care home: A facility which admits residents on medical referral; it maintains the services and facilities for institutional care and has a satisfactory agreement with a physician and dentist who will provide continuing supervision including emergencies; it complies with rules and regulations of the Georgia Department of Human Resources. The term "intermediate care" means the provision of food, including special diets when required, shelter, laundry and personal care services, such as help with dressing, getting in and out of bed, bathing, feeding, medications and similar assistance, such services being under appropriate licensed supervision. Intermediate care does not normally include providing care for bed patients except on an emergency or temporary basis.

Junk or Salvage Yards: The use of any part of a lot, whether inside or outside of a building, for the storage, keeping, abandonment, sale or resale of junk, salvage, or scrap materials, or the dismantling, demolition, or abandonment of automobiles and other vehicles, machinery, equipment, or parts thereof.

Kenel: Any facility used for the purpose of commercial boarding or sale of animals (excluding horses, swine, goats, and geese) or pets and any other customarily incidental treatment of the animals such as grooming, cleaning, selling of pet supplies, or otherwise.

Landfill, inert waste: A disposal facility 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, and specifically excluding industrial and demolition waste.

Livestock: Any animal raised for food, raw materials or pleasure, including, but not limited to, beef and dairy cattle, sheep, swine, poultry and horses.

Loading space: Loading and unloading space is a space, typically with dimensions of twelve feet by sixty feet, logically and conveniently located for pickups and/or deliveries or for loading and/or unloading in such a way as it does not conflict with driveways or patron parking, scaled to the delivery vehicles to be used, and accessible to such vehicles.

Lodging service: A facility that offers temporary shelter accommodations, or place for such shelter, open to the public for a fee, including but not limited to inns, hotels, motels, and motor hotels. Bed and breakfast inns are not considered to be lodging services.

Lot: An area designated as a separate and distinct parcel of land on a legally recorded subdivision plot or in a legally recorded deed as filed in the official county records.

Lot area, minimum: Minimum lot area means the smallest permitted total horizontal area within the lot lines of a lot, exclusive of street right-of-ways but inclusive of easements.

Lot, Corner: A lot located at the intersection of two or more streets.

Lot coverage, maximum: The percentage of a given lot that may be occupied by all principal and accessory buildings and structures on said lot, measured within the outside of the exterior walls of the ground floor of all principal and accessory buildings and structures on the lot.

Lot, Double Frontage: A lot which has frontage on more than one street, provided however, that no corner lot shall qualify as a double frontage lot unless said corner lot has frontage on three or more streets.

Lot frontage: The width in linear feet of a lot where it abuts the right-of-way of any street.

Lot line, front: The front property line coincident with a street right-of-way line.

Lot of record: A lot which is part of a subdivision, a plat of which has been recorded in the records of the Clerk of Superior Court of Gilmer County; or a parcel of land, the deed of which has been recorded in the same office prior to the effective date of this ordinance.

Lot Width: The distance between side lot lines measured at the front building line.

Manufactured home: A structure, transportable in one or more sections, which, in the traveling mode, is eight (8) body feet or more in width or forty (40) body feet or more in length, when erected on site, is three hundred twenty (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).

Manufactured Home Park: A parcel of land which has been planned and improved for the placement of two (2) or more Manufactured homes. (Such use is a prohibited use in East Ellijay.)

Manufacturing: Manufacturing means the converting of raw, unfinished materials or products, or any or either of them, into an article or articles or substance of a different character, or for use for a different character, or for use as a different purpose.

Mini-warehouse: A structure or group of structures containing separate spaces/stalls, which are leased or rented on an individual basis for the storage of goods.

Mobile Home: A structure, transportable in one or more sections, which, in the traveling mode, is eight (8) body feet or more in width or forty (40) body feet or more in length, when erected on site, is three hundred twenty (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; and which has not been inspected and approved as meeting the requirements of the National Manufactured Housing Construction and Safety Standards Act of 1974, as amended (42 U.S.C. 5401-5445).

Motel: A permanent building or group of permanent buildings in which overnight sleeping accommodations are provided for travelers and having a parking space near or adjacent to the entrance of the room. Such use has eighty (80) percent of the rooms occupied by a different registered guest every five (5) days, provides patrons with daily maid service, twenty-four (24) hour desk/counter clerk service, and a telephone switchboard service to receive incoming/outgoing messages, and shall comply with the applicable requirements of the Gilmer County Health Department and O.C.G.A. Section 31-28-1 et. Seq., and may provide restaurants, retail gift shops, meetings rooms, swimming pools, and exercise facilities. For the purposes of this ordinance, the word "motel" includes the term "hotel" and "tourist court."

Motor Vehicle sales and service establishment: New and used car, truck, tractor, trailer, boat, recreational vehicle, camper, motorcycle, and other motorized vehicle sales, leasing, rental, and service, including mobile and manufactured home and modular building sales, and agricultural implement and equipment. This definition includes automotive services such as rental car facilities, body, paint, automotive glass, transmission, and tire repair shops, car washes, including automated and staffed facilities, and oil change and lubrication facilities.

Nonconforming building or structure: A building or structure that does not meet one or more setbacks for the land use intensity district in which said building or structure is located, or a building or structure that exceeds the maximum lot coverage for the land use intensity district in which said building or structure is located, or a principal building or accessory structure that otherwise does not comply with dimensional requirements established by this ordinance for the particular principal building or accessory structure or for the use district in which the nonconforming building or structure is located.

Nonconforming lot: A lot which does not conform to the lot requirements of the zoning district in which the lot is located as established by this ordinance but which was a lot of record prior to the effective date of this ordinance or subsequent amendments to this Ordinance.

Nonconforming Use: A structure or land lawfully occupied by an existing use which does not conform with the permitted uses for the zoning district in which it is situated, either at the effective date of this Ordinance or as the result of subsequent amendments to this Ordinance.

Nursing home: A facility which admits patients on medical referral only and for whom arrangements have been made for continuous medical supervision; it maintains the services and facilities for skilled nursing care, rehabilitative nursing care, and has a satisfactory agreement with a physician and dentist who will be available for any medical and/or dental emergency and who will be responsible for the

general medical and dental supervision of the home; it complies with rules and regulations of the Georgia Department of Human Resources.

Office: A building, or portion thereof, wherein predominantly administrative, professional, or clerical operations are performed, and not involving retail sales.

Open air business: Any commercial establishment with the principal use of displaying products in an area exposed to open air on three or more sides, including but not limited to rock yards, nurseries and garden supply stores, lumber and building materials yards, flea markets, statuarjes and monument sales establishments, Christmas tree lots and firewood sales lots, liquid petroleum dealers and tank sales. A produce stand is not considered to be an open-air business.

Parking Lot: Any public or private open area used for the express purpose of parking automobiles and other vehicles with the exception of areas on the premises of single-family dwellings used for parking purposes incidental to the principal use. Parking lots may be the principal use on a given lot or an accessory use to the principal use on a given lot.

Parking Space: An area having dimensions of nine (9) feet by twenty (20) feet and not less than one hundred and eighty (180) square feet, excluding driveway and maneuvering area, to be used as a temporary storage space for a private motor vehicle.

Patio House: A single-family dwelling in which most, or all, of a lot is used with yard space combined instead of divided. Front, rear, and side yards are consolidated into one garden area, either partially or completely bordered by rooms or enclosed by walls.

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 or administrator by blood or marriage. Personal care tasks include assistance with bathing, toileting, grooming, shaving, dental care, dressing, and eating.

Personal service establishment: A facility engaged in the provision of services to persons and their apparel, including but not limited to barber and beauty shops, coin-operated and full service laundries and dry cleaners, photographic studios, shoe repair and shoeshine shops, dance studios, schools, and halls, and travel agencies.

Public use: Any building, structure, or use owned and/or operated by the federal government, state of Georgia, County, the city, or any authority, agency, board, or commission of the above governments, that is necessary to serve a public purpose, such as but not limited to the following: government administrative buildings, post offices, police and fire stations, libraries and publicly operated museums, public health facilities and public hospitals, public works camps, parks and community centers, public roads and streets, airports, water and sanitary sewerage intake, collection, pumping, treatment, and storage facilities, emergency medical facilities, and jails and correctional facilities.

Recycling center, processing: Any facility utilized for the purpose of collecting, sorting and processing materials to be recycled, including but not limited to, plastics, glass, paper and aluminum materials.

Research laboratory: A facility for scientific laboratory research in technology-intensive fields, including but not limited to biotechnology, pharmaceuticals, genetics, plastics, polymers, resins, coatings, fibers, fabrics, films, heat transfer, and radiation research facilities, computer software, information systems, communication systems, transportation, geographic information systems, multi-media and video technology. Also included in this definition are facilities devoted to the analysis of natural resources, medical resources, and manufactured materials, including environmental laboratories for the analysis of air, water, and soil; medical or veterinary laboratories for the analysis of blood, tissue, or other human medical or animal products, and forensic laboratories for analysis of evidence in support of law enforcement agencies.

Retail establishment, enclosed: Any business offering goods and products for sale to the public, which may include the incidental repair of such goods and products, that operates entirely within a structure containing a roof and walls on all sides, except for outdoor display or other use during business hours and accessory storage in enclosed, subordinate buildings. These include but are not limited to the following: convenience stores including the sale of gasoline, hardware, paint, glass and wallpaper stores, grocery and miscellaneous food stores including retail bakeries, apparel, shoe, and accessory clothing stores, furniture, upholstery, floor covering, household appliance and home furnishing stores, musical instrument stores, radio, television, and computer stores, record, tape, and compact disc stores, eating and drinking places not involving drive-in or drive-through facilities, drug stores, apothecaries and proprietary stores, liquor stores and bottle shops, used merchandise stores and pawn shops, sporting goods stores and bicycle shops, art and stationery stores, hobby, toy, and game shops, jewelry, gift, novelty, souvenir and antique shops, camera and photographic supply stores, luggage and leather goods stores, sewing, needlework, and piece goods stores, catalogue and mail order stores, news stands, florists, tobacco shops, automotive parts stores not involving repair, video rental and sales stores, and watch and clock sales and repair shops.

Roadside stand: A use offering either farm-grown, prepared food products such as fruits, vegetables, canned foods, or similar agricultural products for sale on the premises or within a temporary structure on the premises with no space for customers within the structure itself.

Rooming House: A dwelling, permanently occupied by the owner or operator, where only sleeping accommodation is provided for five (5) or more permanent occupants not of the same family by prearrangement for definite periods and for compensation and which makes no provision for cooking in any of the occupied rooms.

Screening: A method of visually shielding or obscuring one abutting or nearby building, structure, or use from another by fencing, walls, berms, densely planted vegetation, or some combination thereof.

Semi-public use: Any building, structure, or use, owned and/or operated by private utilities or private companies for a public purpose, or that is reasonably necessary for the furnishing of adequate service by such utilities, such as but not limited to the following: underground and overhead gas, electric, steam, or

water distribution or transmission lines or systems, including incidental wires, cables, and poles but not towers.

Shopping Center: A group of three (3) or more commercial establishments planned, constructed and managed as a total entity with customer and employee parking provided on-site, provision for goods delivery separated from customer access, aesthetic considerations and protection from the elements.

Street: A dedicated and accepted public right-of-way for vehicular traffic which affords the principal means of access to abutting properties.

Structure: Anything constructed or erected, the use of which requires more or less permanent location on the ground or which is attached to something having more or less permanent location on the ground.

Subdivision: A tract parceled into two or more lots for the purpose of residential development.

Townhouse: See "Dwelling, Single-Family Attached."

Tract: See "Lot."

Trash: Cuttings from vegetation, refuse, paper, bottles, and rags. Also see *Junk*.

Truck Terminal: A facility for the receipt, transfer, short term storage, and dispatching of goods transported by truck.

Variance: A modification of the strict terms of this Ordinance granted by the Board of Appeals where such modification will not be contrary to the public interest, and where, owing to conditions peculiar to the property such as irregular lot size, topographic or other characteristics of the land and not as the result of any action on the part of the property owner, a literal enforcement of this Ordinance would result in unnecessary and undue hardship. Such modification may not authorize a principal or accessory use of the property which is not permitted within the Zoning District in which the property is located nor allow an increase in the density as established by this Ordinance.

Warehouse: Storage of materials, equipment, or products within a building for manufacturing use or for distribution to wholesalers or retailers.

Wetlands: Those lands classified as "poorly or very poorly drained soils" by the Natural Resource Conservation Service.

Wholesale trade establishment: An establishment engaged in the selling or distribution of merchandise to retailers, to industrial, commercial, institutional or professional business users, or to other wholesalers.

Yard: A required space on the same lot with a principal building, open, unoccupied, and unobstructed by buildings or structures from ground to sky except where encroachments or accessory buildings and other structures are expressly permitted. Plant materials, fences, signs, utility poles, lawn lights, and

related structures may be permitted within any yard area provided they do not create a traffic safety hazard.

Yard, Front: A yard situated between the front building line and the front lot line extending the full width of the lot.

Yard, Rear: A yard situated between the rear building line and the rear lot line and extending the full width of the lot.

Yard, Side: A yard situated between a side building line and a side lot line and extending from the front yard to the rear yard.

ARTICLE XIV

LEGAL STATUS PROVISIONS

Section 1400 Conflict with Other Laws

Whenever the regulation of this Ordinance require a greater width or size of yards, 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 statutes, the requirements of this Ordinance shall govern. Whenever the provisions of any other statute require more restrictive standards than are required by this Ordinance, the provisions of such statute shall govern.

Section 1401 Validity

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

Section 1402 Repeal of Conflicting Ordinances

All ordinances and parts of ordinances in conflict herewith are repealed to the extent necessary to give this Ordinance full force and effect.

Section 1403 Effective Date

This Ordinance shall take effect and be in force from and after the date of its adoption by the City Council the public welfare of the City of East Ellijay requiring it.

**APPENDIX A
ZONING PROCEDURES AND STANDARDS ORDINANCE**

CITY OF EAST ELLIJAY, GEORGIA

An Ordinance of the City of East Ellijay, Georgia establishing minimum procedural regulations, notice of public hearings, conduct of public hearings, standards, and factors, governing the zoning power of the City of East Ellijay, Georgia, and substituting this Ordinance in lieu of the Zoning Policy and Procedures Ordinance of July 18, 1990, as amended, as of the effective date hereof, and for other purposes.

1.0 Preamble and Enactment Clause. For the purpose of insuring that due process is afforded to the general public when the City of East Ellijay, Georgia regulates the use of property through the exercise of zoning power, and pursuant to the authority and mandates of the Constitution of the State of Georgia of 1983, Article IX, Section II, Paragraph IV and Chapter Sixty-Six of Title Thirty-Six of the Official Code of Georgia Annotated (O.C.G.A. Section 36-66-1 et. seq.), the City of East Ellijay, Georgia does hereby adopt, order, and enact into law this Ordinance.

2.0 Definitions. When used in this Article, the following terms shall have the definitions and meaning hereafter set forth, alphabetically:

Conditional Use (Special Use). A use approved within a zone district, generally considered compatible with the other uses allowed in the district, only after due consideration of objective criteria as applicable to the proposed conditional use.

Planning Commission. The East Ellijay Municipal Planning Commission or any other agency hereafter designated by the governing authority of the City of East Ellijay which is authorized to investigate any proposal for a zoning decision properly coming before it, to conduct any public hearings necessary for the exercise of any zoning power, and to provide an advisory recommendation to the governing authority concerning the proposed zoning decision.

Territorial Boundaries. The incorporated areas of the City of East Ellijay, State of Georgia.

Zoning. The power of the City of East Ellijay to provide within its territorial boundaries for the zoning and districting of property for various uses and the prohibition of other or different uses within such zones or districts and for the regulation of development and the improvement of real estate within such zones or districts in accordance with the uses of property for which said zones or districts were established.

Zoning Decision. The final legislative action by the City of East Ellijay which results in:

- a) the adoption of a zoning ordinance;
- b) the adoption of an amendment to a zoning ordinance which changes the text of the zoning ordinance;

-
- c) the adoption of an amendment to a zoning ordinance which rezones property from one zoning classification to another;
 - d) the adoption of an amendment to a zoning ordinance which zones property that is annexed to the territorial boundaries of the City of East Ellijay, State of Georgia; or
 - e) the approval of a conditional use (special use) of property.

Zoning Ordinance. An Ordinance for the City of East Ellijay establishing procedures and zones or districts within its territorial boundaries which regulate the uses and development standards of property within such zones or districts. The term also includes the Zoning Map (as hereinafter amended) adopted in conjunction with the Zoning Ordinance of the City of East Ellijay, which shows the zones and districts and zoning classification of property herein.

3.0 Adoption of the Zoning Ordinance. Initial adoption of the Zoning Ordinance by the City of East Ellijay, State of Georgia shall comply with the following Sections of this Ordinance:

- Section 5.1 regarding written notice;
- Section 6.0 regarding a public hearing;
- Section 7.0 regarding conduct of hearings;
- Section 8.0 regarding zoning standards; and
- Section 9.0 regarding official action.

4.0 Amendment. This Ordinance and the Zoning Ordinance of East Ellijay, Georgia may be amended from time to time subject to the following conditions:

- 4.1 No Amendment shall become effective unless it shall have been initiated by either the Mayor and Council of the City of East Ellijay, the East Ellijay Municipal Planning Commission, the property owner(s) or an individual who has the owner(s)' power of attorney authorizing him/her to act, or a request signed by sixty (60) percent of the property owners who hold not less than sixty (60) percent of the affected land; or valid annexation procedures as defined by Chapter 36 of Title 36 of the Official Code of Georgia Annotated. (O.C.G.A. 36-36-1 et. seq.).
- 4.2 All proposed amendments or conditional use reviews shall be initiated by an application filed with the City Clerk of East Ellijay on forms provided by the City of East Ellijay. A standard fee to be set from time to time by the governing authority shall be paid with the application.

5.0 Public Notice. Notice of the public hearing on a proposed amendment to this Ordinance or for a proposed zoning decision shall be given as hereinafter set forth:

- 5.1 At least fifteen (15), but not more than forty-five (45) days prior to the date set for the public hearing, a written notice shall be published in a newspaper of general circulation in the City of East Ellijay setting forth the time, place, and purpose of the hearing.

5.2 In addition to the requirements of subsection 5.1, if the proposed amendment calls for a zoning decision for the 1) rezoning of property; 2) annexation to the territorial boundaries of the City of East Ellijay; or 3) approval of a conditional (special) use permit, and the proposed amendment is initiated by a person other than the Mayor and Council of the City of East Ellijay:

5.2-1 The published notice shall include the location of the property and state the present zoning classification of the property (if applicable) and the proposed zoning classification of the property (if applicable); and the proposed use requiring a special use (conditional use) review (if applicable); and

5.2-2 A sign shall be placed in a conspicuous location on the property that is the subject of the zoning decision setting forth the time, place and purpose of the public hearing, the present zoning classification of the property, and the proposed zoning classification of the property (if applicable), and (if applicable) the proposed use requiring a special use (conditional use) review. Acts of vandalism or natural occurrences limiting the effectiveness of notice by a sign posted on the property shall not invalidate any proceedings or action taken on the proposed amendment.

5.2-3 The City of East Ellijay shall notify by regular mail all abutting property owners, including those that would abut if not separated by the width of a public street or railroad right-of-way, as to the date, time, and purpose of the proposed zoning decision, at least fifteen (15) working days prior to the date of the public hearing. Notification and a copy of this Ordinance shall be sent to those property owners shown to be the owners by the Gilmer County Tax Records upon the date of the filing of the application for zoning decision. Failure of an abutting owner to receive timely notice shall not void the proceedings.

5.3 If the zoning decision is for property to be annexed into the City of East Ellijay, then:

5.3-1 The City of East Ellijay shall complete the procedures required by this chapter for such zoning, except for the final vote of the municipal governing authority, prior to adoption of the annexation ordinance or resolution or the effective date of any local Act but no sooner than the date the notice of the proposed annexation is provided to the governing authority of the county as required under O.C.G.A. 36-36-6;

5.3-2 In addition to the notice requirements of Section 5.3-1, the City of East Ellijay shall provide notice of the hearing as required under the provisions of Section 5.0, herein; and

5.3-3 The hearing required by Section 6.0 of this Ordinance shall be conducted prior to the annexation of the subject property into the City of East Ellijay;

5.3-4 The zoning classification approved by the City of East Ellijay following the hearing required herein, shall become effective on the later of: a) the date the zoning is approved by the City of East Ellijay; or b) the date that the annexation becomes effective pursuant to O.C.G.A. 36-36-2.

- 6.0 **Public Hearing.** A public hearing for the initial adoption of this Ordinance or the Zoning Ordinance of East Ellijay shall be held before the East Ellijay Municipal Planning Commission and the Mayor and Council. Public notice shall apply as set forth in Section 5.1 and the public hearing shall be conducted as set forth in Section 7.0 with the Mayor or his/her delegate conducting the public hearing before the Mayor and Council as would the Chairman of the Planning Commission or his/her delegate.

Thereafter, a public hearing on any proposed amendment to this Ordinance or the Zoning Ordinance of East Ellijay shall be held before the East Ellijay Municipal Planning Commission on behalf of the Mayor and Council of East Ellijay. A public hearing shall be conducted at the time and place specified by the Planning Commission and as set forth in the public notice described in Section 5.0 of this Article. The purpose of such hearing shall be to present to the public the proposed zoning amendment, and to receive comments thereon from the public. The Planning Commission shall consider the proceedings and comments of such hearing in making any zoning recommendation on the proposed zoning amendment. The Planning Commission shall prescribe the rules of order for its deliberations on matters with which it is charged under this Ordinance, and said rules of order shall be consistent with the general requirements and purposes set forth in this Ordinance and other laws of the State of Georgia concerning conduct of proceedings of public commissions, bodies, and governmental units.

- 7.0 **Conduct of Hearings.** The following policies and procedures shall govern the conduct of public hearings under this Ordinance:

- 7.1 The Chairman of the Planning Commission or his/her delegate on the Commission shall open any hearing with an explanation of the purpose of the hearing and a description of the general rules for the conduct of the hearing. The Chairman or his/her delegate may describe the authority and role of the Planning Commission in any zoning decision. An individual requesting to be heard on a matter germane to the purpose of the hearing must be recognized by the Chairman or his/her delegate before addressing the Planning Commission.

The Chairman or his/her delegate shall chair the hearing and shall determine germaneness of any proposed comment or presentation to the Planning Commission in the hearing and is authorized to rule any individual or a portion of any presentation out of order if not germane to the published purpose of the hearing. Any person requesting to address the Planning Commission upon being recognized by the Chairman or his/her delegate shall state his name and residence address before proceeding with any comment, remarks, or presentation. Any person addressing the Planning Commission shall respond to questions of the Chairman or any member of the Commission. The Chairman or his/her delegate may pre-determine the length of any hearing allotting equal time to proponents and opponents of any proposed zoning amendment to the extent that there are both proponents and opponents who desire to be heard. The Chairman or his/her delegate shall only be required to offer equal time to both proponents and opponents of any proposed zoning amendment and the fact that equal time is not in fact utilized by either position shall not invalidate any proceedings or

action taken on the proposed amendment. The Chairman, however, shall allow a minimum time period to be no less than ten (10) minutes per side for the presentation of data, evidence, and opinion.

- 7.2 The Chairman or his/her delegate shall determine whether any application for zoning amendment is properly filed and the type of zoning decision for which the proposed amendment calls. The Chairman or his/her delegate shall confirm the giving of proper public notice of the hearing on the proposed zoning amendment in accordance with this Ordinance.
- 7.3 The Chairman or his/her delegate shall allow the person initiating the proposed zoning amendment or his/her/its designee to present a description of the proposed zoning amendment and the reason(s) for initiating the proposed zoning amendment. A failure of the applicant or his/her representative holding power-of-attorney to be present for the hearing shall result in automatic termination of any proceedings on the amendment and an adverse recommendation on the proposed amendment shall be forwarded to the Mayor and Council of the City of East Ellijay, unless the applicant can show just cause by reason of health emergency, in which case the application may be refiled by the applicant for consideration at a later date.
- 7.4 The Chairman or his/her delegate shall enter into the record after the presentation of the applicant or his/her/its representative any written comment, petition, or similar written statement received by the Planning Commission prior to the hearing and the same shall be considered by the Mayor and Council with comments and proceedings of the hearing in making any zoning decision concerning the proposed zoning amendment.
- 7.5 The Chairman or his/her delegate shall give persons opposed to the proposed amendment the opportunity to address the Planning Commission.
- 7.6 The Chairman or his/her delegate may alternate the presentations of persons speaking in favor of and opposed to the proposed zoning amendment beginning with the presentation of the applicant or his/her/its representative, or the Chairman or his/her delegate may divide such presentations into blocks of time beginning with proponents of the proposed zoning amendment, and thereafter moving to the presentations of opponents of the proposed zoning amendment. Further, the Chairman or his/her delegate may direct that proponents and opponents designate one or more spokesperson(s) for presentations of favorable and opposing views of the proposed zoning amendment. The Chairman or his/her delegate may poll the public assemblage at the hearing concerning their concurrence in the remarks of any speaker.
- 7.7 Any remark amounting to attack on the character or personal integrity of another individual, or comment not factually supportable, or comment in the form of an emotional outburst, shall be non-germane to the purpose of any hearing and may be ruled out of order.

- 7.8 Upon conclusion of the presentation of persons opposing the proposed zoning amendment, the Chairman or his/her delegate shall afford the person initiating the petition an allotted time to address the Planning Commission in rebuttal of any issue(s) raised by persons addressing the Planning Commission in opposition to the proposed zoning amendment. The Chairman or his/her delegate may rule out of order the raising of any new issue(s) in rebuttal unless he deems the raising of such new issues useful to the purposes of the hearing, in which case those persons present and opposing the proposed zoning amendment shall be allocated an equal amount of time through a spokesperson or otherwise to address such new issue(s).
- 7.9 When proponents and opponents of the proposed zoning amendment have been heard in accordance with the foregoing procedures, the Chairman or his/her delegate shall declare the public hearing closed. No further public hearing on the proposed zoning amendment shall be required prior to the final zoning decision.
- 8.0 **Zoning Standards.** Exercise of the zoning power of the City of East Ellijay shall constitute an effort to balance the interest of the community in promoting the public health, safety, morality, or general welfare against the right of property owners to the unrestricted use of their property. The following standards are determined to be relevant in balancing the interest in promoting the public health, safety, morality, or general welfare against the right to unrestricted use of the property.
- 8.1 **Standards:**
- 8.1-1 Whether the proposed amendment would allow a use that is generally suitable for the site compared to other possible uses and the uses and zoning of adjacent and nearby properties;
- 8.1-2 Whether the proposed amendment would adversely affect the economic value or the uses of adjacent and nearby properties;
- 8.1-3 Whether the property to be affected by the proposed amendment can be used as currently zoned;
- 8.1-4 Whether the proposed amendment, if adopted, would result in a use which would or could cause an excessive or burdensome use of existing streets, schools, sewers, water resources, police and fire protection, or other utilities;
- 8.1-5 Whether the subject property under the proposed amendment is in conformity with the policies and intent of the adopted Gilmer 2015: A Shared Vision, A Joint Comprehensive Plan for Gilmer County, and the Cities of Ellijay and East Ellijay, as amended.
- 8.1-6 Whether there are other conditions or transitional patterns affecting the use and development of the subject property, if applicable, which give grounds for either approval or disapproval of the proposed amendment.

- 8.2 The City of East Ellijay shall consider any proposed zoning amendment properly initiated in light of the standards set forth in Section 8.1. In evaluating the standards set forth in Section 8.1, it shall be the policy of the City of East Ellijay to exercise its zoning power in conformity with the policy and intent of the Gilmer 2015: A Shared Vision, A Joint Comprehensive Plan for Gilmer County, and the Cities of Ellijay and East Ellijay, insofar as that plan is current in its application to the specific property that is the subject of the proposed amendment. It is further the policy of the City of East Ellijay to exercise the zoning power for purposes of assuring the compatibility of the use of adjacent and nearby properties and the preservation of the economic value of adjacent and nearby properties while enabling a reasonable use of all property.
- 8.3 **Conditional Use (Special Use).** The granting of a conditional use does not constitute a permanent change in zoning or use. The conditional use can be forfeited if it does not meet the review criteria. To ameliorate the impact of a conditional use on surrounding property, no conditional use may be granted without special provisions for conditions, criteria, standards, and/or requirements as to the particular use. A permit for a conditional use (special use) shall be approved or denied, provided that due consideration is given to the following objective criteria as applicable to the specific use proposed at the specific site requested:
- 8.3-1 Whether the proposed use impacts negatively or positively the anticipated volume of traffic flow or pedestrian safety in the vicinity;
 - 8.3-2 Whether the hours and manner of operation of the conditional use (special use) have no adverse effects on other properties/uses in the vicinity;
 - 8.3-3 Whether refuse areas, parking, or loading/service areas on the property will be located or screened to protect other properties in the vicinity from noise, light, glare, or odors; and
 - 8.3-4 Whether the height, size, or location of the building or other structures on the property are compatible with the height, size, or location of buildings or other structures on neighboring properties.
 - 8.3-5 Whether the size of the lot is sufficient for the proposed use, accounting for growth opportunity that will not infringe upon the requirements of the zoning ordinance nor infringe upon the relationship to surrounding land.
 - 8.3-6 And satisfying the foregoing criteria, whether the benefits of and need for the proposed use are greater than any possible depreciating effects and damages to the neighboring properties.
- 9.0 **Official Action.** Consideration of any proposed zoning decision properly initiated and subsequent to the public hearing shall be as follows:
- 9.1 The planning staff of the City of East Ellijay shall make a report of its investigation of the proposed zoning decision to the Planning Commission commenting on the advisability of adopting any proposed zoning amendment. The report of the planning staff shall be in writing addressed to the Planning Commission. Further, the planning

staff's report shall provide an evaluation of each of the standards set forth in Section 8.1 (or Section 8.3, as applicable) and describe how the planning staff's advice is considered to be consistent with the exercise of zoning power set forth in Section 8.2. A summary of the proceedings of the public hearing shall accompany the Planning Commission's written recommendation to the Mayor and Council.

- 9.2 Upon conclusion of the public hearing, the Planning Commission may approve, disapprove, or table the proposed zoning decision. The Planning Commission may recommend and/or the Mayor and Council may amend an application prior to acting thereon: 1) to reduce the size of the area affected by the amendment; 2) to change the requested zone district to a less intensive or lower density district than the requested zone; 3) to specify conditions that are deemed relevant to the public interest regarding site plans, ingress/egress, buffers, and infrastructure related to drainage, utilities, traffic, and other matters. The foregoing powers are not in limitation of any other zoning powers accorded the City of East Ellijay under the laws of the State of Georgia. If the Planning Commission fails to recommend action on the zoning decision in writing within forty-five (45) days of the close of the public hearing and the applicant does not agree in writing to an extension of the time limit, the applicant may take the proposed zoning decision to the Mayor and Council without a Planning Commission recommendation. If consideration of the proposed zoning amendment is tabled, it shall be reconsidered by the Planning Commission not later than its next regular monthly meeting. In any event, the Commission shall have forty-five (45) days from the date of the close of the public hearing before the Planning Commission to review and submit its written recommendation to the Mayor and Council of East Ellijay. Once an application for a zoning decision has been filed and the Planning Commission holds the public hearing, the Planning Commission shall make a recommendation on the proposed zoning decision and the Mayor and Council shall take a final action, regardless of whether or not the applicant withdraws his/her/its application for the proposed amendment.
- 9.3 The authority of the Planning Commission and planning staff in any zoning decision shall be advisory only. Any zoning decision shall be made by the Mayor and Council of the City of East Ellijay, who shall either approve or disapprove the proposed zoning amendment. Any approval of a proposed zoning decision may be subject to any and all lawful conditions determined by the governing authority that are attached to the ordinance approving the proposed zoning decision.
- 9.4 If the Mayor and Council of the City of East Ellijay shall take official action defeating a proposed zoning amendment which seeks to rezone property or approve a conditional (special) use, the same property may not be considered again for rezoning or conditional (special) use until the expiration of twelve (12) months from the date of the official action of the Mayor and Council.
- 10.0 **Distribution.** Copies of this/her Zoning Procedures and Standards Ordinance, as amended, shall be printed and copies thereof made available for distribution to the general public in the offices of the City Clerk of the City of East Ellijay, Georgia. Distribution to the general public shall be upon request of a member of the general public who shall be entitled to one copy. The

Clerk of the City of East Ellijay, Georgia, is authorized to print copies of this Ordinance and any amendments thereto from time to time for purposes of meeting distribution requirements of "The Zoning Procedures Law" (Title 36, Chapter 66 of the Official Code of Georgia Annotated).

11.0 Legal Status.

- 11.1 Separability.** Should any section or provision of this Ordinance be declared by a court of competent jurisdiction 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.
- 11.2 Repeal of Conflicting Resolutions and Ordinances.** All resolutions and Ordinances and parts of resolutions and Ordinances in conflict herewith are repealed.
- 11.3 Effective Date.** This Ordinance shall take effect and be enforced from and after its adoption, the public welfare of the City of East Ellijay requiring it.

ADOPTED AND APPROVED on the 14th day of OCTOBER, 2003, at a regular meeting of the Mayor and Council of the City of East Ellijay.

APPROVED:


MACK G. WEST, MAYOR
CITY OF EAST ELLIJAY, GEORGIA

ATTEST:


CITY OF EAST ELLIJAY, CITY CLERK

APPENDIX "B"

SCHEDULE OF FEES

The schedule of fees listed below shall be posted in the office of the City Clerk and may be altered or amended from time to time by the City Council to help defray the costs of zoning administration.

No land use permit, sign permit, certificate of occupancy, demolition permit, or temporary certificate of zoning compliance shall be issued until such fees have been paid in full in the office of the City Clerk, nor shall any action be taken on proceedings before the Board of Appeals or Planning Commission until the following application fees have been paid in full:

Land Use Permit and Certificate of Occupancy (one form)	\$ 25.00
Demolition Permit	\$ 25.00
Temporary Certificate of Zoning Compliance	\$ 25.00

\$25.00 for one certificate and each renewal

The following filing fees are to help defray expenses of legal notices, hearings, and other extra administrative costs and are in addition to permit and certificate fees listed herein:

Conditional Use Permit Application	\$100.00
Variance	\$ 50.00
Application Amendment of Ordinance or Zoning Map; Review of PUD, Patio House, or Cluster Development	\$100.00

No application fees or filing fees shall be returned in the event that the project is denied, not constructed for any reason, or if a permit is cancelled as provided for in Article XII, Section Article XI, Section 1112.