CITY OF AUSTELL ZONING ORDINANCE
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ARTICLE I. IN GENERAL

Sec. 22-1. Definitions.

Accessory building or structure: shall mean a building or structure subordinate to the principal use or building on a lot or property and serving a purpose customarily incidental to the use of the principal building, provided any such structure or building is built with or after the construction of the principal building. Where an accessory building or structure is attached to the principal building in a substantial manner, as by an attachment built as enclosed heated floor space, such accessory building or structure shall be considered part of the principal building.

Accessory retail uses: shall mean retail sales and services accessory to the operation of an office building or institutional use, motel, hotel or high-rise apartment development, conducted wholly within the building housing the use to which such activities are accessory, provided that the floor space used or to be used for such secondary uses shall be limited to a total of 25 square feet per dwelling unit in a high-rise apartment development or 25 square feet per room in a hotel or motel, or ten percent of the net floor area in an office building or institutional use, and provided that:

(1) Every public entrance to such a use shall be from a lobby, hallway or other interior portion of the primary use structure;
(2) No show window, advertising or display shall be visible from the exterior of the primary use structure; and
(3) No merchandise shall be stored or displayed outside of the primary use structure.

However, the requirements of subsections (1) and (2) of this definition shall not apply to restaurants and cafeterias secondary to a hotel or motel and office building or institutional use; these secondary uses may be located in a structure other than the primary use structure. The following secondary uses are permitted: barbershops, beauty shops, laundry and dry cleaning pickup and distribution stations and other similar personal service establishments, drugstores, bookstores, florists, convenience food stores, gift shops, cafeterias and restaurants, private clubs, laundry facilities for the convenience of residents, and newsstands. However, the total net floor space for such secondary building or structure uses shall be limited to 6,000 square feet.

Accessory uses: shall mean uses subordinate to the principal use or building on a lot and serving a purpose customarily incidental to the use of the principal building, provided any such use is built with or after the construction of the principal building. Such uses include garbage pads, heating and air conditioning units, Jacuzzis, tennis courts, swimming pools (private), playhouses, playgrounds and the like.

Adult means any person over the age of 18 years old or legally emancipated in the State of Georgia.

Adult Entertainment: Please refer to Chapter 14, Article VI, Section 6-93. – 6-109.6. Adult Entertainment Establishments – Code of Ordinances of the City of Austell, Georgia.

Agricultural produce stand: shall mean a structure not greater than 1,000 square feet for the purpose of seasonal sales of products grown or produced on the premises on which it is located.

Agriculture: Land, including necessary buildings and structures, shall be considered used for agriculture if not composed of subdivision lots, and if the raising of crops or animals is the principal use of the property.

Alley: shall mean a public or private way, at the rear or side of property, permanently reserved as a means of secondary vehicular access to abutting property. Frontage on an alley shall not be construed as satisfying the requirements of this ordinance related to frontage on a dedicated street.

Ancillary retail sales (industrial districts): shall mean retail sale of goods and services which is secondary in nature to the primary industrial use of the property in that the goods for sale have been produced on-site or are in storage at the site for planned distribution to other areas. The ancillary retail sale of goods shall only be conducted as part of the permitted industrial use and shall not be a freestanding business.

Animal Hospital: Excluding open kennels on the premises, provided that all structures shall be located at least two hundred (200) feet from any property zoned or used for residential purposes.

Animal shows: shall mean exhibitions of domestic or large animals for a maximum of seven days.

Apartment: shall mean a leased residential unit in a multi-family building or development.

Apartment operation: shall mean an individual or coordinated ownership of two or more apartments in a multi-family building or a multi-family development with coordinated use of leasing agents or other leasing services.

Arcade: shall mean a building or part of a building in which five or more pinball machines, video games or other children's rides or other similar player-operated amusement devices are maintained, not including commercial recreation restaurants.

Automobile service station, gas station and filling *station:* shall mean a building or structure used for the retail sale and dispensing of fuel, lubricants, tires, batteries, accessories and supplies, including installation and minor services customarily incidental thereto. Facilities for washing and for chassis and gear lubrication of vehicles are permitted if enclosed in a building.

Automobile storage yard and wrecker *service:* shall mean an establishment used for the short-term storage of damaged or confiscated vehicles.

Automotive paint and body repair shop: shall mean an establishment for restoring auto bodies, painting or refinishing, with all activities carried on entirely within an enclosed building.

Automotive salvage and wrecking yard: shall mean any place where two or more motor vehicles not in running condition, or parts thereof, are stored in the open and are not being restored to operation, or any land, building or structure used for wrecking or storing of such motor vehicles or farm machinery, or parts thereof, stored in the open and not being restored to operating condition, and including the commercial salvaging of any other goods, articles or merchandise.

Basement (for the purposes of this chapter): shall mean a portion of a building partly underground which has more than one-half of its height, measured from finished floor to finished ceiling, above the average grade of the adjoining ground. A basement shall not be deemed a story unless the ceiling is six feet or more above the grade, or unless it is part of any permitted self-service storage facility.

Biomedical waste transfer and disposal facility: shall mean a facility engineered and designed for the collection or transfer of biomedical waste products, such as used gauze, syringes, needles, bandages, test tubes and surgical wastes, from a collector vehicle to a larger transport vehicle to another destination for incineration or disposal.

Boardinghouse: shall mean a building where lodging only is provided for compensation to three (3) or more, but not exceeding fifteen (15) persons. A building, which has accommodations for more than fifteen persons, shall be defined as a hotel under the terms of this ordinance.

Buffer. A buffer serves as a visual or physical barrier which is created by the use of planted or natural existing materials alone or in combination with berms, decorative fencing or walls.

Buffer area: an area set aside to give additional setback from adjacent structures or types of land use or to preserve open, undisturbed space and may include a restrictive covenant in favor of the city for conservation uses.

Building: any structure designed or built for the support, enclosure, shelter or protection of persons, animals or property of any kind.

Building height (height of structure or building): is the vertical distance from the curb level, or its equivalent, to the highest point of the underside of the ceiling beams, in the case of a flat roof; to the deck line of a mansard roof; and to the mean level of the underside of the rafters between the eaves and the ridge of a gable, hip or gambrel roof. Where no curb level has been established, the height of the building may be measured from the mean elevation of the finished lot grade at the front entrance of the building.

Building line: is the perimeter of that portion of the building or structure nearest a property line, but excluding open steps, terraces, cornices and other ornamental features projecting from the walls of the building or structure. For the purposes of this chapter, the foundation wall of a building, excluding brick, stucco, stone, or other siding material, shall constitute the perimeter as described in this definition, except that cantilevered portions of a building, excluding roof eaves and overhangs, chimneys, bay windows and the brick, stucco, stone or other siding material applied thereon, must be within a building line established in this chapter.

Carwash: shall mean a building, or portion thereof, where automobiles are washed with the use of a chain conveyor and blower, automated or mechanized washers or a handheld steam cleaning device, including coin operated facilities, and money is charged or collected for said service.

Cellar: a portion of a building partly underground which has less than one-half of its height, measured from finished floor to finished ceiling, above the average grade of the adjoining ground. A cellar shall not be deemed a story.

Central Business District (CBD): The central business district (CBD) encourages the intensive development of a centralized business center for the city through uses, which will benefit from close proximity to one another. The (CBD) Boundaries are shown on the Official Zoning Map of the City of Austell.

Christmas tree sales: retail sales of Christmas trees between Thanksgiving and December 26th.

Church: Any building whose primary function is to serve as a place of worship and within which religious education and related activities may be conducted as an accessory use.

Circus and carnival: shall mean provision of games, eating and drinking facilities, live entertainment, animal exhibitions or similar activities in a tent or other temporary structure for a maximum of seven days. This classification excludes events conducted in a permanent entertainment facility.

Clinic. A medical or dental clinic is an organization of specializing physicians or dentists, or both, who have their offices in a common building. A clinic shall include laboratory facilities in conjunction with normal clinic services; however, no overnight stay of patients shall be permitted.

Club or lodge, private: shall mean a building and facilities owned or operated by a corporation, association or person for a social, educational or recreational purpose, but not primarily for profit or to render a service which is customarily carried on as a business and shall not include amenity packages and areas of subdivisions.

Clubhouse: shall mean a structure providing ancillary uses and sales, such structure to be in proportion to the overall golf facilities, not exceeding 1,600 square feet, with annual gross revenue from golf ball rental exceeding annual gross revenue from ancillary sales. The owner or operator shall maintain accurate accounting records, which shall be available for inspection by city officials.

Commercial filming, limited: shall mean commercial motion picture or video photography at the same location six or fewer consecutive days per quarter of a calendar year in residential districts or fewer than 15 days per quarter of a calendar year in nonresidential districts.

Commercial indoor recreation uses: shall mean indoor recreational uses such as bowling alleys, driving ranges, batting cages, shooting ranges and the like.

Commercial outdoor recreation uses: shall mean outdoor recreation uses such as baseball and softball batting cages, shooting ranges, miniature golf, putt-putt golf and the like.

Commercial recreation restaurant: shall mean any establishment which provides as a principal use the combination of family-oriented recreation and on-premises dining where neither the recreation nor the on-premises dining is clearly accessory or incidental to the

operation of the other. For the purpose of this definition, recreation may include but is not limited to:

(1) Television and motion pictures;
(2) Sound and sight systems;
(3) Mechanically or electronically operated games;
(4) Animated mechanical devices or rides; and
(5) Live entertainment.

Commissioner: shall mean the commissioner of Community Affairs for the State of Georgia.

Community activity center. The purpose of the community activity center (CAC) category is to provide for areas that can meet the immediate needs of several neighborhoods or communities. Typical land uses for these areas include low- to mid-rise office buildings and department stores.

Community center: shall mean a place, structure, area or other facility used for and providing religious, fraternal, social or recreational programs generally open to the public and designed to accommodate and serve significant segments of the community.

Community fair: shall mean a festival or fair such as the North Georgia State Fair conducted wholly within public areas owned by a local government, provided that any activity is conducted at least 200 feet from any property line. Any event shall not exceed 21 days.

Community retail uses: shall mean commonly found low scale and low intensity retail uses that offer basic services and frequently purchased goods to the immediate surrounding residential areas, such as the following: auto parts store, antique shop, appliance store (home use), bakery, barber shop or beauty shop, beverage shop, bookstore (but not including adult bookstores), bridal shop, camera shop, china and pottery store, clothing store, dance studio, delicatessen, dog grooming shop, draperies and interior decorating supplies, drug store, dry goods store, florist, furniture store, gifts and stationery store, hardware store, jewelry store, manicurist shop, meat market or butcher shop, millinery store, mimeograph and letter shop, music store, paint store, pedicurist shop, shoe repair shop, shoe store, sporting goods store, supermarket or grocery, tailor shop, toy store, variety shop or video store.

Component: shall mean any assembly, subassembly or combination of parts for use as a part of a building, which may include structural, electrical, plumbing, mechanical, and fire protection systems and other systems affecting health and safety.

Condominium means individual ownership of units in a multifamily structure, together with the joint ownership of common areas of the building and grounds.

Continuing care retirement community: shall mean a community designed for and occupied by those persons age 55 and older as defined by the Fair Housing Act as may be amended from time to time and those persons with disabilities as defined by the Americans With Disabilities Act as may be amended from time to time that provide a range of housing and lifestyle needs, including independent living, assisted living, and skilled nursing care in an integrated system. CCRC residents are provided housing, services, healthful activities and care through the continuing care contract. The contract sets forth the accommodations, services, amenities and care the facility is to provide, and the financial obligations of the residents. The

contract must allow for movement between the lifestyle choices (levels of support) as the individual resident's needs evolve (providing the resident meets contract obligations).

Convenience food store with self-service fuel sales: shall mean any retail establishment offering for sale automotive fuels, prepackaged food products, beverages, household items and other goods commonly associated with such establishments and having a gross floor area of no more than 3,000 square feet. There shall be no automotive repairs done on site.

Conviction means adjudication of guilt, plea of guilty, plea of nolo contendere or the forfeiture of a bond when charged with a crime, but shall not include a discharge under the provisions of what is commonly called the State of Georgia First Offender Act.

Cultural facility, private: shall mean a private building or facility such as art galleries, museums, legitimate theaters (other than motion picture or video theaters), libraries and other uses similar in character to such uses.

Curb Cut: Any interruption or break in the lines of a street curb for the purpose of connecting a driveway to a street; or otherwise to provide vehicular access to abutting property.

Customary home occupation: shall mean those occupations, which are customarily performed in a small area of a residence due to the low intensity nature of such uses, subject to the following requirements:

(1) There shall be no exterior evidence of the home occupation, including but not limited to any type of identifying signs.
(2) No article, product or service used or sold in connection with such activity shall be other than those normally found on the premises.
(3) No mechanical equipment shall be used for such occupation except such equipment as is customary for purely household and hobby purposes.
(4) Such use shall be conducted entirely within the dwelling unit and only persons living in the dwelling unit shall be employed in such occupation.
(5) No more than 25 percent of the dwelling unit may be used for the operation.
(6) No materials, equipment or business vehicles may be stored or parked on the premises except that one business vehicle, used exclusively by the resident may be parked in a carport, garage, or rear or side yard. The off-site employees of the resident shall not congregate on the premises for any purpose concerning the business of home occupation.
(7) There shall be no deliveries of supplies for use in the home occupation or pickups of the items produced by the occupant by commercial carrier.
(8) No clients or customers are allowed on the premises, except for on chair beauty salon and individual instruction, such as tutoring, musical lessons and the like, for the purpose of supplementing an income.

Deck: shall mean a roofless accessory attached or detached platform without exterior walls, generally constructed of wood, which adjoins a residence. Rails or safety features shall not be deemed to be exterior walls.

Designated recycling collection location: shall mean metal or heavy duty plastic containers, bins or dumpsters designed for short-term holding of pre-bagged recyclable items such as tin, aluminum, glass and paper (no perishable or food items allowed) for scheduled minimum monthly pickup, with no on-premises sorting. The center must be maintained in a safe, clean, neat and sanitary fashion and shall not encompass an area larger than 280 square feet.

(1) Such location shall be visually screened and maintained.
(2) Such location shall be within the building setbacks unless otherwise approved by the Building Official or his/her designee due to topography, safety, internal traffic flow, site distance or for other site-related circumstances not created by the property owner.
(3) Must be permitted through the Zoning Administrator at no charge.

Distance and measurement. Distance from the proposed premises of an adult entertainment establishment shall be the measurement in lineal feet from the center of any door of customer entry of the proposed premises of the adult entertainment establishment to the nearest property line of any church, library, school, college, public park, residence or hospital. If the establishment is not on ground level, then the beginning point for measuring the distance shall be the point at ground level determined by measuring from the center of any door of customer entry perpendicular to the ground level. A radius shall be measured from the center of any door of customer entry of the proposed premises to the nearest property line of any church, library, school, college, public park, residence or hospital.

Drive-in establishment: shall mean an establishment which is designed to provide, either wholly or in part, service to customers while in their automobiles parked upon the premises.

DUA means dwelling units per acre.

Dwelling, multifamily: A building designed for and containing three (3) or more dwelling units.

Dwelling, single family: A building designed for and containing one (1) dwelling unit.

Dwelling, single family, attached: A dwelling unit which is located on an individual lot of record and which is attached to another dwelling unit or an adjoining lot by a common party wall.

Dwelling, two family (duplex): A building designed for and containing two (2) dwelling units.

Dwelling unit. A dwelling unit consists of one or more rooms, which are arranged, designed or used as living quarters for one family, or two or fewer unrelated adults and their children and/or grandchildren. A dwelling unit may also be occupied by a family and up to two persons who are not family members.

(1) A dwelling unit shall have an interior bathroom and complete kitchen facilities, permanently installed.
(2) A dwelling unit shall have at least 390 square feet of total building square footage (as determined and maintained in the records of the Cobb County Tax Assessor) per each adult occupant.
(3) No more than one vehicle per 390 square feet of total building square footage may be parked regularly overnight at or within the right-of-way adjacent to a dwelling unit. "Regularly" means a majority of nights in any 7-day period.

Exceptions to subparagraphs (2) and (3) may be considered as part of a land use permit.

Executive golf course: shall mean a tract of land not less than 65 acres in size dedicated for playing an 18-hole game of golf, which is open to the general public or for private club use.

The par shall not be less than 58 from the men's tees as governed by the United States Golf Association. Further, the golf course shall not measure less than 4,000 yards from the men's tees as governed by the United States Golf Association.

Extended stay motel and hotel: One (1) or more buildings in which lodging or dwelling are provided for tenants, wherein the term of stay is designed for more than one (1) night's lodging. Rental units consist of one (1) or more rooms plus a bath, without separate kitchen facilities common to apartments. Any atypical motel or hotel unit used as an apartment. Included, but not by way of limitation, in distinguishing extended stay facilities from apartments or hotels are:

a. Weekly rental rates, as opposed to nightly charge with twenty-four (24) hour check-in/ checkout periods.

b. Whether or not daily mail service is provided.

c. Whether or not linens, towels and the like usually found in motels and hotels are furnished.

d. Any other factors, which tend to demonstrate that the business depends upon extended tenant occupancy, excluding property zoned apartments.

Family: shall mean one or more persons related by blood, legal adoption, or marriage, or two or fewer unrelated adults, occupying a dwelling. Related persons are all related to each other within the fourth degree, as defined in O.C.G.A. § 53-2-1, which includes parents, children, grandparents, grandchildren, brothers and sisters. State of Georgia authorized foster children of a family member shall also be deemed a member of the family for this purpose.

Floodplain: shall mean that area subject to a one percent or greater chance of flooding in any given year or as may be defined from time to time by the Federal Emergency Management Agency (FEMA) and its successors.

Floor area: shall mean the gross horizontal area of the several floors of a building, exclusive of garages, basements, open porches and equipment and service areas, measured from the exterior face of the exterior walls of a building. When determining floor area or floor area ratio for self-service storage facilities, the gross horizontal area of the several floors of a building shall include garages, basements, open porches and equipment and service areas, measured from the exterior face of the exterior walls of a building.

Floor area ratio: is a mathematical expression determined by dividing the total floor area of a building by the area of the lot on which it is located, as follows:
Floor Area/Lot Area = Floor Area Ratio

Fraternity or sorority house: shall mean a dwelling maintained exclusively for members affiliated with an academic or professional college or university, or other recognized institution of higher learning.

Freestanding climate controlled self-service storage facilities: shall mean climate controlled self-service storage facilities that are not complementary or accessory to an office park or building but rather on a separate, individual parcel.

Frontage, lot: the distance for which the front property line of the lot and the street line are coincident.

Future right-of-way. The distance required by the thoroughfare plan shall be as follows:

(1) Arterial streets: 100-foot right-of-way width.
(2) Major collector streets: 80-foot right-of-way width.
(3) Minor collector streets: 60-foot right-of-way width.

The thoroughfare plan is deemed and considered to be that plan designated "Thoroughfare Plan," prepared under the direction of the city, as amended from time to time.

Game Room: Please refer to Chapter 14, Article XI, Section 6-180. – 6-197. Game Rooms – Code of Ordinances of the City of Austell, Georgia.

Garage: shall mean a structure or any portion thereof in which one or more automobiles are housed, kept or repaired, not including exhibition or showrooms, or storage of cars for sale.

Grade: shall mean an average level of the finished surface of the ground adjacent to the exterior walls of the building or structure.

Group home: A dwelling unit, operated by an affiliate of a National, Regional, State or County Organization with a philanthropic mission, shared by four or fewer persons, excluding resident staff, who live together as a single housekeeping unit and in a long term, family-like environment in which staff persons provide care, education and participation in community activities, under a structured and scheduled plan that must be provided to the City, for the residents with the primary goal of enabling the residents to live as independently as possible in order to reach their maximum potential under the direction and guidance of a designated managing caregiver, designated as such by the affiliate organization, who must be a resident of the group home and available by telephone on a 24 hour basis in case of complaints. A copy of the home rules shall be provided to the City as well as (if applicable) evidence of active enforcement under the Georgia Association of Recovery Residence standards. The schedule of activities may be verified via periodic inspection by Community Affairs staff. The term "group home" shall not include a halfway house, a treatment center for alcoholism or drug abuse, a work release facility for convicts or ex-convicts, a home for the detention and/or rehabilitation of juveniles adjudged delinquent or unruly and placed in the custody of the state, or other housing facilities serving as an alternative to incarceration. The term "group home" shall also not allow the use of the dwelling as an apartment or duplex. A group home shall not allow use of the dwelling as a home for individuals on parole, probation, or convicted and released from incarceration, for any crimes including child molestation, aggravated child molestation, or child sexual abuse, as defined in O.C.G.A. § 16-6-4 or individuals required to register as sex offenders in pursuant to O.C.G.A. § 42-1-12. A group home may include a home for the handicapped. As used in this subsection, the term "handicapped" shall mean:

(1) Having a physical or mental impairment that substantially limits one or more of such person's major life activities.
(2) Having a record of having such an impairment; or
(3) Being regarded as having such an impairment.

However, the term "handicapped" shall not include persons who currently use illegal controlled substances, persons who have been convicted of the illegal manufacture or distribution or

controlled substances, sex offenders, and juvenile offenders or persons with or without disabilities who present a direct threat to the persons or property of others.

Halfway house: shall mean any dwelling used as a residence by individuals on parole, probation, or serving a criminal sentence on condition of house arrest, for the purpose of rehabilitation of the individual while transitioning back into the community. Halfway houses shall not be located within 1,000 feet of any child care facility, private or public school, church, school bus stop, public or private playground and parks or swimming pools, or other areas where minors congregate as defined in O.C.G.A. § 42-1-12(a)(3).

Halfway houses are not allowed in any zoning district except by a special land use permit (SLUP) granted by the Mayor and Council.

Applications for special land use permits for halfway houses shall comply with the provisions of O.C.G.A. § 36-66-4(f).

Heavy automotive repair establishment: shall mean an indoor repair establishment for performing automotive and truck repair, including engine and transmission overhauls.

Heavy manufacturing establishment: Manufacturing establishments, other than those classified as light manufacturing, including those involving the conversion of raw materials into usable finished products, provided that manufacturing that will generate liquid waste from the manufacturing process or air pollutants shall comply with antipollution standards established by the state, county, and City of Austell.

High-rise apartment development: A building or buildings of at least four (4) stories or forty-five (45) feet in height located on a tract of land of at least two (2) acres and developed in accordance with other applicable city regulations.

Home occupation: See *customary home occupation.*

Hospital: A building or portion thereof designed or used for therapeutic treatment of bed patients who are physically or mentally ill.

Hotel: A building in which lodging, or board and lodging, are provided for at least 15 transient guests, and offered to the public for compensation, and in which ingress and egress to and from all rooms are made through an inside lobby or office supervised by a person in charge at all hours.

Impervious surface: A permanent improvement affixed to the earth, which does not allow water or liquid to pass through it or permeate into the earth. For the purposes of this chapter, impervious surface shall include structures (principal and accessory), parking lots, driveways, walkways, non-wooden pool decks and the like.

In-home day care: Childcare provided within single-family districts subject to the following limitations:

(1) There shall be a maximum of six children for whom compensation is received;
(2) For purpose of this definition only, children who are related by direct blood kin or adoption to the child care provider shall not be included in the calculation of the six-child limitation;

(3) The childcare shall not create a nuisance to immediately adjacent property owners;
(4) Off-street parking must provided for child pickup and drop-off; and
(5) There shall be no employees.
(6) No signage allowed.

Industrialized building: Any structure or component thereof which is wholly or in substantial part made, fabricated, formed or assembled in manufacturing facilities for installation or assembly and 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.

Installation: The assembly of an industrialized building on site and the process of affixing the industrialized building, component or system to land, a foundation, footings or an existing building.

Landfill, private: A disposal site employing an engineering method of disposing of solid wastes in a manner that minimizes environmental hazards by spreading, compacting to the smallest volume, and applying cover material over all exposed waste at the end of the operating day.

Landing area: Area located in front of the tee box required by this ordinance to be designated and designed as a location for golf balls hit from permitted tees to travel and land safely.

Landscape feature: Any structure designed to enhance the aesthetic value of the exterior horticultural landscape such as a gazebo, statue, arbor or the like. Landscape feature also means any small body of water designed to enhance the aesthetic value of the exterior horticultural landscape such as a fountain, pond (which may house domestic or recreational fish, excluding livestock, nondomestic and wild animals and poultry), waterfall and the like.

Light automotive repair establishment: An indoor repair establishment (no outside storage) for performing light auto and small truck repair (under one ton) such as brakes, oil changes, lubrication, transmission, belts, hoses, inspections and the like.

Light manufacturing establishment: An establishment for production, processing, assembly, manufacturing, compounding, preparation, cleaning, servicing, testing or repair of materials, goods or products; however, the manufacturing and production of any product which emits noxious noise, odor or fumes, bulk storage of flammable materials for resale, and other heavy manufacturing uses listed herein shall not be permitted.

Live entertainment: Music, comedy, readings, dancing, acting or other entertainment, excluding adult entertainment, performed on the site. This classification includes dancing by patrons to live or recorded music.

Livestock, nondomestic and wild animals, and poultry: Animals, nondomestic and wild animals, and species of the avian family which are or may be raised for the purpose of providing food or transportation, or being resold or bred, excluding only dogs, cats, rabbits, fish, pet mice, hamsters, gerbils, parrots and parakeets.

(1) Such animals shall only be permitted on a lot containing not less than two acres.

(2) All buildings used for animals shall be set back not less than 200 feet from any property line.
(3) All animals shall be maintained at least twenty-five (25) feet from any residential property line.
(4) Except in the RR district, there shall be not less than 5,000 square feet of fenced lot area not covered by the principal structure for each animal, unless the property is a bona fide farm.
(5) These rules are effective with respect to new construction, not existing uses.
(6) In the event of non-domestic or wild animals, all state and federal requirements must be met and a Special Land Use Permit is required.

Lot: A parcel of land, whether or not platted, in single ownership, and not divided by a street.

Lot, corner: A lot fronting on two streets at their intersection, provided that the interior angle formed by the intersection is less than one hundred thirty-five (135) degrees. When the frontage of one street exceeds the frontage of the other, the one with the least frontage shall be deemed the front of the lot.

Lot coverage: The percentage of a lot, which may be covered with permitted, or accessory buildings or structures, excluding walks, drives and other similar uses, and recreational facilities, which are accessory to a permitted use.

Lot, double frontage: A lot, other than a corner lot which has frontage on two streets.

Lot depth: The average horizontal distance between the front and rear lot lines.

Lot frontage: The distance for which the boundary line of a lot and a street right-of-way line are coincident.

Lot of record: A lot, which is part of an approved subdivision, a plat of which has been recorded in the office of the Clerk of the Superior Court of the county.

Lot width: The distance between the side lot lines measured along the front building line of the lot as determined by the prescribed front yard requirement.

Maintained natural buffer: A designated area that may be enhanced with plantings ecologically compatible to the area, which may not be clear-cut, mowed or otherwise disturbed. Only dead, dying, diseased or invasive vines or plants may be removed from the buffer. No storage, or structures, or other non-growing items may be placed in the buffer. Invisible fencing, i.e., electronic underground fencing for containment of animals, is acceptable within the buffer when on individual residential lots.

Major thoroughfare: A street or highway designated an arterial thoroughfare upon the thoroughfare plan of the City of Austell, Georgia.

Manufacture: The process of making, fabricating, constructing, forming or assembling a product from raw, unfinished or semi-finished materials.

Manufactured home.

(1) Class I manufactured home means a single-family dwelling unit that is constructed in accordance with the Federal Manufactured Home Construction and Safety Standards and bears an insignia issued by the U.S. Department of Housing and Urban Development (HUD), or one, if constructed prior to applicability of such standards and insignia requirements, that was constructed in conformity with the state standards in effect on the date of manufacture.
(2) Class II manufactured home means a unit meeting the requirements of a manufactured home class I and, in addition, bearing an insignia of the Southern Standard Building Code Congress International (SSBCCI) of Birmingham, Alabama.

Mining: A process involving the removal or extraction of dirt, sand, soil, rock, gravel, minerals, petroleum, natural gas or other natural resources.

Minor: For the purposes of this ordinance, any person who has not attained the age of 21 years.

Minor thoroughfare: A street or highway designated as a collector thoroughfare upon the thoroughfare plan of the City of Austell, Georgia.

Mobile home: A detached, single-family dwelling designed for long-term occupancy, designed to be transported on its own wheels, arriving at the site as a complete dwelling unit, usually including major appliances and furniture, and ready for occupancy. Removal of the wheels and placement on a foundation does not change its classification. A travel trailer is not a mobile home.

Mobile home park: A parcel of land, which has been planned and improved for the placement of mobile homes for nontransient use.

Modular building: A factory-manufactured single-family dwelling, which is constructed in one or more sections and complies with the definition of an industrialized building.

Modular home: A factory-fabricated transportable building consisting of units designed to be incorporated at a building site on a permanent foundation into a permanent structure to be used for residential purposes.

Motel: A building in which lodging, or board and lodging, are provided for transient guests and offered to the motoring public for compensation, in which ingress and egress to and from all rooms are made primarily direct from an exterior walkway rather than from an inside lobby. Kitchenettes or kitchen facilities are prohibited.

Neighborhood activity center: The purpose of the neighborhood activity center (NAC) category is to provide for areas that serve neighborhood residents and businesses. Typical land uses for these areas include small offices, limited retail uses and grocery stores.

Neighborhood retail uses: Commonly found low scale and low intensity retail uses (with square footages in accordance with the use limitations established within the individual zoning districts of this chapter) that offer basic services and frequently purchased goods to the immediate surrounding residential areas, such as, but not limited to, an auto parts store, antique shop, appliance store (home use), bakery, barbershop or beauty shop, beverage shop, bookstore (but not including adult bookstore), bridal shop, camera shop, china and pottery store, clothing store, dance studio, delicatessen, dog grooming shop, draperies and interior decorating supplies,

drugstore, hardware store, dry goods store, florist, furniture store, gifts and stationery store, jewelry store, manicurist shop, meat market or butcher shop, millinery store, mimeograph and letter shop, music store, novelty shop, paint store, pedicurist shop, shoe repair shop, shoe store, sporting goods store, supermarket or grocery, tailor shop, toy store, variety shop or video store.

Nightclub: An establishment which operates with its primary income generation from the sales of alcoholic beverages, and which may offer live entertainment.

Nonautomotive repair uses: Commonly found low intensity repair shops, such as, but not limited to, shops for repair of jewelry, cameras, home appliances, televisions and videocassette recorders.

Noncommercial club or lodge: A nonprofit club or organization as defined under Section 501 of the Internal Revenue code, or as amended from time to time.

Nonconforming use: Any building or land lawfully occupied by a use at the time of passage of the ordinance from which this chapter is derived or the time of passage of an amendment to this chapter, which does not conform after the passage of such ordinance or amendment with the regulations of the district in which it is situated. Existing improvements which do not meet required parking and loading regulations, height regulations, area regulations and residential floor area regulations for the district in which they are located are not nonconforming uses as defined in this subsection.

Nursing home: A home for aged or ill persons in which three or more persons not of the immediate family are provided with food, shelter and care for compensation; but not including hospitals, clinics or similar institutions devoted primarily to diagnosis and treatment.

Office service and supply establishment: Wholesale and retail commercial establishments that sell, service and supply small office equipment and supplies, such as, but not limited to, stores that offer sales of copiers, facsimile machines, typewriters, ribbons, transcribers, dictation equipment, tape, staplers and other general office equipment.

Open space: Any front, side or rear yards, courts or usable open space provided about a building in order to meet the requirements of this ordinance.

Other consumer goods and services: Businesses which cater to consumers, providing goods and services such as the following: awning shops and sales, burglar alarm systems, clothing (secondhand), exhibition houses, furniture, home furnishings, equipment and appliances (secondhand), glass, mirrors, lawn mowers and small motors, trading stamp redemption centers and the like.

Other places of worship: Locations such as a monastery, convent, novitiate, parish house, parsonage, rectory or manse.

Other service establishments: Businesses or locations catering to specialty services, such as an auction house or store, cabinetmaker, caterer, delivery and express service, driving school (private), fur repair and storage, gunsmith shop, locksmith shop, safe and vault repair, scientific instrument repair, taxidermist, tool sharpener and the like.

Pain Clinic and Pain Management Clinic: Any clinic, medical practitioner's office or pharmacy that is not affiliated with a hospital, hospice, or other facility for treatment of the

terminally ill in the City of Austell, Georgia, and that also advertises in any medium for any type of pain management services. The primary business purpose of such pain clinics and pain management clinic is to prescribe and/ or dispense prescription pain medication and controlled substances to individuals for the treatment of chronic nonmalignant pain.

Par 3 golf course: A tract of land not less than 40 acres in size dedicated for playing an 18-hole game of golf, which is open to the general public or for private club use. The par shall not be less than 27 for nine holes or 54 for 18 holes from the men's tees as governed by the United States Golf Association. Further, the golf course shall not measure less than 1,750 yards or greater than 3,500 yards.

Park: Any lands or facility owned, operated, controlled or managed by any county, city or federal government or any governmental entity in and upon which recreational activities or places are provided for the recreation and enjoyment of the general public.

Parking for vehicles: shall mean to provide a location for on-site parking of automobiles, trucks and recreational vehicles, with a manufacturer's gross vehicle weight of less than 12,500 pounds as shown on the door of said vehicle, or on the tag receipt. This restriction shall not apply to vehicles parked on church property, which are operated exclusively for church use.

Parking lot or garage: An area or building designated and designed for the temporary storage of motor vehicles for a fee or as a service.

Parking space: A usable hard-surfaced area enclosed within a main or accessory building, or unenclosed, and permanently reserved for the temporary storage of one vehicle. Such space shall be connected with a public street or alley by a surfaced driveway, which affords safe and adequate ingress and egress.

Personal property sales: sales of personal property such as estate sales, yard sales, bakery sales, garage sales, bazaars and the like, three weekends per calendar year, not to exceed three days per sale.

Personal vehicle and equipment sales: The sale, offer to sell, or marketing for sale of any vehicle, motor vehicle, trailer, tractor, special mobile equipment, camper, motor home, motorcycle, moped, recreational vehicle, off-road vehicle, or boat where such sale, offer to sell, or marketing for sale occurs on property whose principal use is not for the sale of vehicles and equipment. No more than three personal vehicle and equipment sales shall be allowed per calendar year on any one parcel of property.

Pervious Surface: materials that permit water to enter the ground by virtue of their porous nature or by large spaces in the material. For the purposes of this chapter, pervious surface shall include gravel, permeable concrete, permeable asphalt and permeable pavers or bricks.

Planned development: A tract of land developed initially under single ownership or control, the development of which is unique and of a substantially different character than that of surrounding areas. Such development shall be based on a plan, which allows for flexibility of design not available under normal zoning district requirements.

Planning Commission: The Austell Planning and Zoning Board as set forth in Article II, Division 2.

Principal use: The primary use and chief purpose of a lot or structure.

Private golf course: A tract of land not less than 115 acres in size dedicated for playing the game of golf, which is open to the private club's membership and their guests and special events. The par shall not be less than 68 from the men's tees as governed by the United States Golf Association. Further, the golf course shall not measure less than 5,500 yards from the men's tees as governed by the United States Golf Association.

Private park: Any lands or facilities owned, operated, controlled or managed by an individual in and upon which recreational activities or places are provided for the recreation and enjoyment of the property owner.

Pro shop: An ancillary structure or area provided for sale or supply of equipment associated with the primary permitted or accessory recreational use.

Professional office: A structure wherein services are performed involving predominately administrative, professional or clerical operations such as the following: law, doctor, optician, audiologist, accounting, tax preparation, real estate, stockbroker, architect, engineer, manufacturer representative, professional counselor, dentist, investigative services, photographer, insurance, contractor, land surveyor, telephone sales, political or campaign, veterinarian, travel bureau, and the like.

Public golf course and semipublic *golf course:* A tract of land not less than 125 acres in size dedicated for playing an 18-hole game of golf, which is open to the general public for play. The par shall not be less than 70 from the men's tees as governed by the United States Golf Association. Further, the golf course shall not measure less than 6,000 yards from the men's tees as governed by the United States Golf Association.

Radio, television, and other commercial towers and antennae: Please refer to Standards for Television, Land Mobile, Communication, Microwave, and Radio Transmission Antennae and Towers.

Rear of the principal building: Shall be that point where the main portion of the building ends, without consideration of wings or annexes, which are not parallel to the main portion of the building.

Recycling center: A center or location designed for sorting or collection of recyclables from designated recycling collection locations and other private entity sources.

Regional shopping center means a group of commercial enterprises offering a range of commercial goods and services in an aggregate of 500,000 square feet or more of net floor area which:

(1) Are designed as a single commercial group, whether or not located on the same lot;
(2) Are under one common ownership or management, or have one common arrangement for the maintenance of the grounds;
(3) Are connected by party walls, partitions, covered canopies or other structural members to form one continuous structure;
(4) Share a common parking area; and
(5) Otherwise present the appearance of one continuous commercial area.

Regulation public nine-hole golf course: A tract of land not less than 65 acres in size dedicated for playing a nine-hole game of golf, which is open to general public use. The par shall not be less than 34 from the men's tees as governed by the United States Golf Association. Further, the golf course shall not measure less than 3,000 yards from the men's tees as governed by the United States Golf Association.

Religious assembly: Religious services conducted on a site that is not permanently occupied by a religious assembly use, for a period of not more than 30 days.

Residence: A house, apartment, mobile home, boardinghouse or rooming house, duplex or other multifamily housing for human dwelling, or any property zoned therefor.

Residence hall: A house, apartment, boardinghouse or rooming house, or other multifamily housing for human dwelling.

Rest home: A health facility where persons are housed and furnished with meals and continuing nursing care for compensation.

Retail sales, outdoor: Retail sales of new merchandise on the site of a legally established retail business, which has a direct relationship to existing businesses.

Riding Stable: A building for the shelter and feeding of domestic animals, especially horses.

Rooming house: A building where lodging only is provided for compensation to three or more persons, but not exceeding 15 persons. A building, which has accommodations for more than 15 persons, shall be defined as a hotel.

Satellite antenna: Any apparatus, which is designed for the purpose of receiving telephone, radio, microwave, satellite or similar signals, with the exception of conventional television antennas.

School: State, county, city, church or other schools, public or private, as teach the subjects commonly taught in the common schools of this state, and vocational schools, colleges, post-high-school learning centers, kindergartens and day care centers for persons of all ages.

Self-service storage facilities: A freestanding or accessory building (including those considered as climate-controlled) constructed to accommodate the limited storage of materials as further specified and restricted per this section. For the purposes of this section, any portion of a self-service storage facility that includes a basement as defined in this section shall be deemed a story.

Setback: The minimum required distance between the property line and the building line.

Shelter (homeless): Charitable, nonprofit, short-term housing or room and board accommodations for poor, transient or needy individuals, which must meet the following minimum criteria:

(1) Adequate showers and restroom facilities must be provided at the location to meet the needs of the overnight guests.

(2) Beds must be provided for all overnight guests, excluding staff and volunteer workers.
(3) No shelter shall be located closer than 750 feet to the nearest single-family residence.
(4) Guests of the shelter shall be required to leave the shelter premises no later than 7:00 a.m.
(5) All premises shall be maintained in a clean, safe and sanitary fashion.
(6) Adequate provisions for transporting and parking guests shall be submitted to and approved by the Mayor or his/her designee.

While not specifically a permitted use under all districts, a shelter may be located in a church facility, which meets the minimum standards set out in this definition.

Site (manufactured home only): The entire tract, subdivision or parcel of land on which the industrialized building or manufactured home is installed.

Story: That portion of a building included between the surface of any floor and the surface of the floor next above it, or, if there is no floor above it, the space between such floor and the ceiling above it. A basement shall be counted as a story if its ceiling is over six feet above the average level of the finished ground surface adjoining the exterior walls of such story, or if it is used for business or dwelling purposes.

Street: A dedicated and accepted public right-of-way, which affords primary access to abutting property.

Street, center line of: The line surveyed and monumented by Cobb County or Douglas County, the Georgia Department of Transportation, or the City of Austell, or if a center line has not been surveyed and monumented, it shall be that line running midway between the right-of-way lines of the street.

Street fair: Provision of games, eating and drinking facilities, live entertainment or similar activities not requiring the use of roofed structures.

Street right-of-way line: The dividing line between a lot, tract or parcel of land and the legal street right-of-way.

Structural alteration: Any change in the supporting members of a building, such as bearing walls or partitions, columns, beams or girders, or any structural change in the roof, or dimension of the rooms therein.

Structure: Anything constructed or erected, the use of which requires a location on the ground, or attached to something having a location on the ground, including, but not limited to, tennis courts, fences, swimming pools and buildings.

System: Structural, plumbing, mechanical, electrical or fire safety elements, materials or components used separately or combined for use in a building.

Temporary uses: (By permit from the Building Official or his/her designee only) Specialized and intermittent uses of property such as animal shows, Christmas tree sales, circuses and carnivals, commercial filming (limited), live entertainment, personal property sales, religious assemblies, retail sales (outdoor), street fairs and swap meets (nonrecurring), not to exceed 30 days or the time period set forth in these definitions, whichever is lesser. Adequate

off-street parking shall be provided for all such uses. All temporary uses may be subject to approval by the Austell Mayor and Council.

Tent: A temporary or permanent structure having a roof or walls of fabric.

Townhouse: An attached house in a row or group, each house separated from adjoining houses in the same row or group by architectural style, changing of facade, or offsets, and by firewalls or fire separations. Ownership is in fee simple.

Trailer, camping: Any portable structure or vehicle designed for highway travel which is used or intended to be used for either living, sleeping, cooking or eating purposes, and which does not include all of the following facilities: a flush water closet, a lavatory, a bath or shower, and a kitchen sink but not intended for permanent residence.

Tutoring or learning centers: A for profit organization which provides educational assistance to children in first through twelfth grades based on a system of learning or instructional standards which supplement the child's primary school participation and attendance, subject to the following requirements:

(1) Hours of operation are to be as follows with the exception listed below:
Monday-Friday 4:00 pm until 8:00 pm
Saturday and Sunday 8:00 am until 8:00 pm
(a) The hours of operation can be extended to 8:00 am until 8 pm every day of the week beginning June 1 and ending August 1 of each calendar year.
(2) Parking spaces in which pickup and delivery of children can take place shall be provided for a minimum of 2 automobiles for schools with 20 to 40 children; schools with 40 to 60 children shall provided four 4 spaces; thereafter there shall be provided a space sufficient to park 5 automobiles, except when located within the CBD, in which case there are no minimum parking requirements.
(3) All spaces within the structure shall be calculated on the effective net area usable for instruction. This space shall not include kitchen areas, or any other interior space that is not used for instruction. The minimum classroom space shall be determined by multiplying the maximum proposed number of pupils for attendance at any one time by the minimum square footage of 40 square feet per pupil.

Variance: A modification of the literal provisions of this ordinance, which the board of zoning appeals is permitted to grant when strict enforcement of such provisions would cause undue hardship owing to circumstances unique to the individual property on which the variance is sought.

Yard: A space on the same lot with a principal building, open, unoccupied and unobstructed by buildings or structures from ground to sky except where encroachment and accessory buildings, structures, uses and decks are expressly permitted. When private roads are involved, the orientation and location of the building itself shall determine the front, back and side yards.

Yard, front: An open, unoccupied space on the same lot with a principal building, extending the full width of the lot, and situated between the street and the front setback line and projected to the sidelines of the lot.

Yard, rear: An open, unoccupied space on the same lot with a principal building, extending the full width of the lot, and situated between the rear line of the lot and the line representing the minimum rear yard requirements.

Yard, side: An open, unoccupied space on the same lot with a principal building, situated between the sideline of the lot and the minimum required side yard and extending from the rear of the front yard to the front line of the rear yard.

Sec. 22-2. Penalties.

(a) Any person who violates any provision of articles I through V of this chapter, after conviction upon a citation issued to the municipal court of the City of Austell, in accordance with O.C.G.A. §36-1-20 may be incarcerated and/or shall be fined an amount as established below for violations within any 12-month period:
(1) For a first violation, a fine of $150.00 and/or 2 days incarceration.
(2) For a second violation, a fine of $300.00 and/or 5 days incarceration.
(3) For a third violation, a fine of $700.00 and/or 10 days incarceration.
(4) For a fourth violation and each successive violation, a fine of $1,000.00 and/or 120 days incarceration.
For purposes of this subparagraph (a), a conviction for violation of any provision of articles I through V of this chapter is a "first violation" if the person has not been convicted of the same provision or any other provision of articles I through V of this chapter within the preceding 12 months. That person's next conviction of the same provision or any other provisions of articles I through V of this chapter within any 12-month period is a "second violation," and so on for subsequent violations.
(b) Any condition or stipulation placed upon a rezoning approved by the Mayor and Council pursuant to this article II of this chapter or a variance approved by the board of zoning appeals pursuant to this article II of this chapter shall have the force and effect of law. Any person who violates any such condition or stipulation shall, after conviction upon citation issued to the municipal court of the City of Austell, be punished as provided in subsection (a) hereof.

Sec. 22-3. Exemptions from chapter.

The following are exempt from complying with the provisions of this chapter:
(1) Unless otherwise provided by law or ordinance, all federal, state, county and municipal government agencies and boards of authority owned, operated and leased facilities as well as facilities owned, operated or leased by others that have received the city's permission to be located on land owned or leased by the city shall be exempt from the provisions of this chapter; however, the city shall be required to meet all of its other development codes, regulations and ordinances.
(2) Any entity that may be entitled to exercise the power of eminent domain shall nevertheless be limited solely to the construction of facilities that are reasonably necessary for the purposes for which the entity was granted the power of eminent domain by applicable law. Any such entity which seeks to construct (or allow others to construct) facilities that are not reasonably necessary for the purposes for which the entity was granted the power of eminent domain shall not be exempt from the provisions of this chapter with respect to such facilities, even if those facilities are placed on or connected with facilities that were originally constructed, or are to be constructed, pursuant to this exemption.
(3) A single antenna under 36 feet in height owned and operated by a federally licensed amateur radio station operator shall be exempt from the provisions of this chapter.
(4) Flagpoles displaying the American flag, basketball goals, gaslight poles, and permanent recreational facilities (home use) such as volleyball, badminton and trampoline equipment are exempted from the requirements pertaining to accessory uses.

Sec. 22-4. Sale, refinancing or leasing of portion of property.

The sale, refinancing or leasing of any portion of a commercial, office or industrial zoned property shall not be considered to constitute a subdivision of such property as long as all other applicable zoning guidelines, site-specific guidelines, site development guidelines, approved site plans and other imposed conditions are met and maintained. This section shall not be applicable to legal nonconforming uses as defined in this chapter. This section is limited only to those portions of the property, which are actually developed and shall not be construed as to allow expansions or modifications of existing sites.

Sec. 22-5. Lots requiring lot size variances prior to rezoning

Any lot which is deficient pertaining to minimum lot size, in which a rezoning is contemplated or needed, shall file an application for variance to the Board of Variance and Zoning Appeals. The application for variance must be approved by the Board of Variance and Zoning Appeals and ratified by the Mayor and Council at least 21 days prior to the Mayor and Council's zoning hearing. However, if the Building Official or his/her designee is provided with documentation which demonstrates the lot size deficiency was caused by purchase or condemnation by an entity utilizing the power of eminent domain, then this code section shall not be applied and the application for rezoning will be processed and decided in the usual manner despite the lot size deficiency.

Secs. 22-6--22-10. Reserved.

ARTICLE II. ADMINISTRATION AND ENFORCEMENT

DIVISION 1. GENERALLY

Sec. 22-11. Nonconforming uses.

(a) *Purpose and intent.* The purpose of a zoning ordinance is to have orderly use of property. Nonconforming uses that existed legally prior to the adoption or change of a zoning ordinance create land uses that do not conform to the zoning ordinance. It is the purpose of this nonconforming use provision to allow legally existing nonconforming uses to be retained with certain limitations to protect adjacent property owners and the public from the inconsistencies created by nonconforming uses. It is the intent that over time all nonconforming uses will be eliminated.

(b) *Continuance of nonconforming uses.* A nonconforming use of a building, structure or land that was legal prior to the enactment of an amendment or adoption of the zoning ordinance shall be allowed to legally continue even though such use does not conform with the provisions of this chapter, subject to the following:

(1) The nonconforming use cannot be expanded to occupy a greater area of land or building area.
(2) The nonconforming use may continue only in the original building structure or land area that was originally occupied by the nonconforming use.
(3) The nonconforming use of the building, structure or land cannot be intensified or escalated, for example, by increasing the number of deliveries, employees or customers coming to the nonconforming use, or noise, dust, fumes or other pollutants emanating from the nonconforming use.
(4) A nonconforming use cannot be reinstated after it has been abandoned. It shall be prima facia evidence of abandonment for the owner and/or operator of the nonconforming use to discontinue the nonconforming use for six months, to fail to obtain a new or renew an existing business license as required under the Code of The City of Austell, Georgia for the operation of such nonconforming use, to fail to declare and remit the sales tax required by state law for the nonconforming use.
(5) Failure to follow any other state, federal or local administrative procedure or regulation that is required for the nonconforming use shall be prima facia evidence of abandonment.
(6) A nonconforming use cannot be changed to another nonconforming use.
(7) A nonconforming use must maintain any screening or buffering that existed prior to the use becoming a nonconforming use or that was later voluntarily added.
(8) A use that constitutes a nuisance as defined by state law is not and cannot become a nonconforming use.

(c) *Continuance of nonconforming structure or building.* A building or structure that is nonconforming or that contains a nonconforming use at the time of enactment of the ordinance from which this chapter is derived or at the time of enactment of an amendment to this chapter may be retained, except that it shall not be:

(1) Enlarged, altered or rebuilt, except for repairs necessary to maintain the structure or building in a safe and sanitary condition.

(2) Rebuilt, altered or repaired after damage or deterioration exceeding 75 percent of its replacement cost at the time of destruction, except in conformity with this chapter.

(d) Nothing in this section shall be construed to allow a use that is dangerous to the general public to continue to exist. This section shall also not be construed to not require changes to buildings or structures to comply with any fire code, life safety code or other safety ordinance or regulation.

(e) To protect the public from inconsistent zoning requirements and to make nonconforming uses as consistent with conforming uses as possible, nonconforming uses must comply with zoning requirements such as parking, landscaping, setback, outside storage, screening or buffering requirements for the zoning district or use which does not substantially impact the nonconforming use or nonconforming structure.

Sec. 22-12. Approvals for developments fronting on state highways

For all developments fronting on a state highway, no building permit shall be issued until the approval of the state highway department has been obtained by the applicant on entrances and exits, curb radii, drainage and other matters that are the appropriate concern of the department.

Sec. 22-13. Validity

Should any section, clause or provision of this ordinance be declared by a court of competent jurisdiction to be invalid, the same shall not affect the validity of the ordinance as a whole or any part thereof, other than the part so declared to be invalid, it being expressly declared that this ordinance would have been and is adopted without such invalid part or parts.

Sec. 22-14. Variance applications.

(a) *Submission.* An applicant for a variance shall file with or submit to the city, prior to processing of the application, the following:

(1) A completed application shall be filed on forms prescribed by the city.
(2) The signature of the applicant and record titleholder shall appear upon the application.
(3) The application fee shall be paid. These fees shall be established from time to time by resolution of the Mayor and Council. A copy of the fee schedule shall be maintained for public inspection in the office of Community Affairs.
(4) The applicant shall submit a current boundary survey and plot plan, to scale, prepared by a registered surveyor or registered engineer. Such plans shall also include such other information thereon as may be required by the zoning or planning division of the city, including preliminary plans for development, building locations, parking areas, access points, adjacent streets, land lot lines and buffer areas.
(5) Private sewage disposal must be approved by the county health department, and written approval from the health department must be filed with the application.
(6) The applicant shall submit a statement indicating that a variation from the terms of this ordinance will not be contrary to public interest where, owing to special conditions, a literal enforcement of the provisions of the ordinance will be an

individual case, result in practical difficulty or unnecessary hardship, so that the spirit of the ordinance shall be observed, public safety and welfare secured, and substantial justice done.

(b) The existence of a nonconforming use of neighboring land, buildings, or structures in the same district or of permitted or nonconforming uses in other districts shall not constitute a reason for the requested variance. A variance may be granted in an individual case of unnecessary hardship upon a finding by the Board of Zoning Appeals that the following conditions exist:

1) There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape or topography that are not applicable to other lands or structure in the same district.
2) A literal interpretation of the provisions of this ordinance would deprive the applicant of rights commonly enjoyed by other properties of the district in which the property is located.
3) Granting the variance requested will not confer upon the property of the applicant any special privileges that are denied to other properties of the district in which the applicant's property is located.
4) The requested variance will be in harmony with the purpose and intent of this ordinance and will not be injurious to the neighborhood or the general welfare.
5) The special circumstances are not the result of the actions of the applicant.
6) The variance requested is the minimum variance that will make possible the legal use of the land, building or structure.
7) The variance is not a request to permit a use of land, buildings, or structures which are not permitted by right in the district involved.

(c) *Posting of public notice.* The posting shall be the same as set forth in section 22-71(b) for zoning applications.

(d) *Reconsideration of rejected applications.* Any variance request may not be reconsidered for a period of twelve months after it has been rejected by the board of zoning appeals, unless by court order or pursuant to a settlement of litigation approved by the board of zoning appeals.

(e) *Amendment or Withdrawal of variance request.* The Mayor and Council, in their sole discretion, may allow an amendment to a variance request or withdrawal of a variance request to amend this ordinance, by the applicant or applicant's agent without prejudice to the applicant's ability to resubmit such variance request on the same property notwithstanding the twelve (12) month resubmittal limitation required in this article, provided said variance request is withdrawn or amended on or before five o'clock (5:00) p.m. on the Monday of the week preceding the council meeting at which it is to be considered by the Mayor and Council; however, no more than one (1) withdrawal of a variance request pertaining to a particular parcel of land shall be permitted with a twelve month period. The Mayor and council may also, on their own motion, amend or withdraw a variance request upon showing of cause of their actions, without prejudice.

Sec. 22-15. Administrative variances when property acquired under exercise of eminent domain.

If the city or any other lawfully constituted county, state or federal governmental authority, agency or body or utility having the authority of eminent domain condemns or acquires property, and, as the sole result of such condemnation or acquisition, nonconformity is created in setback lines, required lot size, density or parking regulations, the zoning division manager or his designee shall be authorized to grant such administrative variances as are necessary to bring the property into conformance upon receipt of a properly documented request. Any variance granted under this section may not exceed 25 percent of the existing requirements without application to the board of zoning appeals except for the overall density which allows the existing number of lots, units or floor area ratio (F.A.R.) to remain as it exists at the time of condemnation or acquisition. The property must be legally conforming prior to such condemnation or acquisition in order to qualify for an administrative variance. The zoning division manager or his designee shall be required to maintain records which support the basis for granting such variance. Any variance granted under this section shall only apply to the current zoning district and use. This section shall only apply to property acquired or condemned by an authority exercising eminent domain after December 31, 1990.

Sec. 22-16. Temporary land use permits.

(a) The Mayor and Council may permit temporary land use permits for limited periods of time for uses, exceptions or professions in areas and districts where the zoning regulations would otherwise prohibit such operations. Customary home occupations as defined in this chapter do not require a temporary land use permit.

(b) In addition thereto, Mayor and Council may grant temporary land use permits for limited periods of time for occupations or businesses compatible with the neighborhood from which such business or occupation is operated and where no nuisance as defined in state law or other significant adverse effect would result to the area or district zoned.

(c) All applications for temporary land use permits shall be advertised in the same manner as applications for rezoning, and public hearings will be held thereon in the same manner as hearings on applications for rezoning are conducted.

(d) The Mayor and Council have determined that temporary land use permits are only appropriate if granted for a limited period of time. In no event shall the Mayor and Council grant a land use permit for a period of time in excess of 24 months except on reapplication, readvertisement and public hearing. Land use permits for exceptions to the city's minimum square footage per adult occupant and minimum square footage per vehicle parked at a dwelling unit or mobile home will be considered upon each renewal. All new applications, (other than those for exceptions to the city's minimum square footage per adult occupant and minimum square footage per vehicle parked at a dwelling unit or mobile home) that have been approved for a temporary land use permit after the adoption date of this amendment may only be considered for one renewal up to 24 months from the date the temporary land use permit was granted. Once the period of time for which the temporary land use permit was granted has expired, the use must cease or relocate.
If the property where a land use permit has been granted is sold or otherwise conveyed, or the business for which the land use permit was granted is sold or otherwise conveyed, requiring a change in the business license, the approved land use permit shall no longer be valid. In order for the use to resume operation, a new land use permit must be applied for and approved by the Mayor and Council.

(e) The applicant or operator must reside full-time at the residence where the temporary home occupation or temporary business is performed if the property is located in a platted subdivision.

(f) The Mayor and Council shall consider, at a minimum, the following in its determination of whether or not to grant a temporary land use permit:

(1) Safety, health, welfare and moral concerns involving the surrounding neighborhood;
(2) Parking and traffic considerations;
(3) Number of nonrelated employees;
(4) Number of commercial and business deliveries;
(5) The governing authority's general presumption that residential neighborhoods should not allow noncompatible business uses;
(6) Compatibility of the business use to the neighborhood;
(7) Hours of operation;
(8) Existing business uses in the vicinity;
(9) Effect on property values of surrounding property;
(10) Circumstances surrounding neighborhood complaints;
(11) Intensity of the proposed business use; and
(12) Location of the use within the neighborhood.

Sec. 22-17. Special land use permits.

(a) A special land use permit shall be required for the following types of uses of property regardless of the zoning classification or district for the realty:

(1) Radio, television, microwave, land mobile, telephone or other communication towers or antennas, including antennas or other communications equipment or facilities to be placed on a tower that was or will be constructed pursuant to the exemption set forth in section 22-3(2).
(2) Communication equipment buildings.
(3) Noncommercial or nonprofit public community centers such as a YWCA, YMCA, Girls Club or Boys Club.
(4) Private, parochial or other elementary, middle, junior or high schools which are not a part of the public school system of the state, but which teach the subjects commonly taught in the common schools of the state.
(5) Colleges or universities which are institutions for higher education and are nonprofit educational institutions not owned or controlled by the state or any political subdivision, agency, instrumentality, district or municipality thereof, which provide a program of education beyond the high school level and which admit as regular students only individuals having a certificate of graduation from a high school, or the recognized equivalent of such a certificate, and which provide an educational program for which a bachelor's degree is awarded, or provide an educational program, admission into which is conditioned upon the prior attainment of a bachelor's degree or its equivalent, for which a postgraduate degree is awarded, or provide not less than a two-year program which is acceptable for full credit toward a bachelor's degree or its equivalent.
(6) Asphalt plants.
(7) Concrete plants.
(8) Adult entertainment establishments.

(9) Boarding, breeding or raising nondomestic or wild animals.
(10) Private landfills.
(11) Composting facilities.
(12) Waste transfer stations.
(13) Trash/garbage handling, hauling or disposal facilities or any use associated with these uses.
(14) Auto salvaging and wrecking yards.
(15) Automobile storage yards and wrecker services for damaged or confiscated vehicles.
(16) Used or pre-owned automobile and truck sales lots separate from a new car dealership. No application for a special land use permit shall be considered unless the property on which the special land use permit has been applied for consists of at least one acre of paved surface for parking of vehicles excluding any area used for, but not limited to buildings, offices, service or sales areas, etc.
(17) Truck stops/refueling stations.
(18) Coliseums.
(19) Stadiums.
(20) Chipping, grinding or reduction of materials, stumps, trees, limbs, construction debris, glass, concrete, asphalt, rock, etc.
(21) Used or discarded tire storage/disposal facilities.
(22) Quarries or mining operations.
(23) Scrap metal, iron or steel collection/recovery.
(24) Any manufacturing or industrial use which also requires a permit from the environmental protection division of the department of natural resources of the state under the provisions of O.C.G.A. tit. 12, ch. 5, 8 or 9 (O.C.G.A. §§ 12-5-1 et seq., 12-8-1 et seq. or 12-9-1 et seq.).
(25) Sawmills.
(26) Hotels (suite).
(27) Trade shows/expositions.
(28) Flea markets.
(29) Churches, chapels, temples, synagogues, and other places of worship.
(30) Mausoleums and other facilities for disposal of the deceased.
(31) Amphitheaters.
(32) Assembly halls.
(33) Automobile, truck, and trailer lease and rental facilities.
(34) Bio-medical waste transfer and disposal facilities.
(35) Building material storage.
(36) Chemical plants or storage facilities.
(37) Freight terminals.
(38) Fuel and ice dealers.
(39) Hazardous waste sites.
(40) Outdoor commercial racing of motorized vehicles.
(41) Parking for vehicles.
(42) Pawn shops.
(43) Petroleum or bulk storage stations.
(44) Rail stations, railroad car classification yards, railroad stations for freight, or any other rail-type facilities.
(45) Rooming and Boarding Houses.
(46) Tire retreading and recapping facilities.
(47) Truck terminals.

(48) Group Homes.
(49) Pain Clinic
(50) Halfway House

(b) The Mayor and Council may grant special land use permits for the uses enumerated in subsection (a) of this section. The granting of a special land use permit is conditional upon the site plan considered by the Department of Community Affairs.

(c) All applications for special land use permits shall be advertised in the same manner as applications for rezoning, and public hearings will be held thereon in the same manner as applications for rezoning are conducted.

(d) The Mayor and Council may grant special land use permits for any period of time in their discretion.

(e) In addition to general district, the Mayor and Council shall consider, at a minimum, the following in its determination of whether or not to grant a special land use permit:

(1) Whether or not there will be a significant adverse effect on the neighborhood or area in which the proposed use will be located.
(2) Whether or not the use is otherwise compatible with the neighborhood.
(3) Whether or not the use proposed will result in a nuisance as defined under state law.
(4) Whether or not quiet enjoyment of surrounding property will be adversely affected.
(5) Whether or not property values of surrounding property will be adversely affected.
(6) Whether or not adequate provisions are made for parking and traffic considerations.
(7) Whether or not the site or intensity of the use is appropriate.
(8) Whether or not special or unique conditions overcome the Mayor and Council's general presumption that residential neighborhoods should not allow noncompatible business uses.
(9) Whether or not adequate provisions are made regarding hours of operation.
(10) Whether or not adequate controls and limits are placed on commercial and business deliveries.
(11) Whether or not adequate landscape plans are incorporated to ensure appropriate transition.
(12) Whether or not the public health, safety, welfare or moral concerns of the surrounding neighborhood will be adversely affected.
(13) Whether the application complies with any applicable specific requirements set forth in this chapter for special land use permits for particular types of uses.
(14) Whether the applicant has provided sufficient information to allow a full consideration of all relevant factors.
(15) In all applications for a special land use permit the burden shall be on the applicant both to produce sufficient information to allow the city fully to consider all relevant factors and to demonstrate that the proposal complies with all applicable requirements and is otherwise consistent with the policies reflected in the factors enumerated in this chapter for consideration by the city.

Sec. 22-18. Temporary mobile home occupancy and land use permit.

(a) In all classifications there may be established a use for the temporary location of a mobile home or a temporary land use only upon issuance of a temporary land use permit,

which may be issued by the Mayor and Council upon the following conditions except in cases involving construction mobile units or mobile education units which may be issued by the Building Official without a hearing:

(1) Application for a use permit shall be filed and shall meet all the requirements of an application for zoning as provided by this chapter. Such application shall have attached thereto a separate statement of the applicant that he recognizes that the use permit, if granted, is for a temporary time only and that the applicant shall cause the removal of the mobile home or the removal of all possessions on the termination of the use permit, or upon the applicant's failure to do so irrevocably grants the City of Austell the right to remove the mobile home or possessions from the premises at the expense of the applicant, for which the applicant agrees to pay.

(b) The Mayor and Council may permit the following:

(1) A mobile home may be parked and occupied in all residential or commercial districts where a building permit has been applied for and obtained from the proper department of the city for the construction of either a home or a place of business.
(2) A mobile home may be parked and occupied in any residential area where a medical hardship exists. For purposes of this section, the term "medical hardship" is defined as a person whose health or mental condition necessitates attention and supervision from the occupants of the dwelling located on the lot on which it is desired to have the mobile home parked and occupied. In no case shall such a use be allowed unless it is shown by the county health department or by other appropriate medical evidence that the person to occupy the mobile home falls within the provisions of this subsection and unless it is satisfactorily shown that the dwelling on the premises does not contain sufficient facilities to accommodate the proposed occupant of the mobile home. In addition, the application shall contain an affidavit or certified statement of a physician showing that present facilities are inadequate and stating that a hardship condition requiring the use of a mobile home for the health care of a member of the immediate family of the occupant of the premises exists.
(3) A mobile home may be parked and occupied in any commercial or industrial district where a building permit has been applied for and where its primary function is that of an office or for storage or related purposes.
(4) A mobile home may be parked and occupied in any district on property owned or leased by a church, chapel, temple, synagogue, other places of worship or a school for a period not to exceed 12 months where its primary function is that of an office or classroom or for storage or related purposes; provided, that not more than one (1) mobile home for each two (2) acres of vacant land may be located thereon.
(5) In all residential classifications the Mayor and Council may grant a use permit for the temporary use of one of the homes or for the parking of a mobile home to be used as a real estate sales office for sale of the lots for new homes built and developed within the boundaries of the development, provided that final plans have been approved therefore by all city authorities. The specific location of the mobile home shall be subject to the approval of the Mayor and Council.
(6) In all classifications, the Mayor and Council may grant a temporary use permit for the use of the land itself under the same ordinance governing mobile home use.
(7) In all instances where an application for a mobile home permit has been applied for, the Mayor and Council shall take into consideration the need for such permit, the aesthetic effect that it may have on the neighborhood, and the location on the property of the mobile home,

and may in its discretion grant or refuse a permit, and the grant or refusal shall not be mandatory, but in all instances shall be permissible depending on the finding of the Mayor and Council as to the conditions stated in this section and any other lawful criteria.

(c) For purposes of this section only, the term "mobile home" is defined to include both mobile structures designed to function as residences and mobile structures designed to function as classrooms, offices and storage buildings.

(d) Use permits may be issued for a period of not more than twenty-four (24) calendar months other than medical hardships and construction hardship permits which shall be not more than twelve (12) months and shall terminate automatically unless reissued. Any such use for a period of more than twelve (12) months shall necessitate applying for a new permit or renewal.

(e) Any violation of this section or the cessation of the need for a use permit shall be grounds for revocation of such permit by the Mayor and Council in addition to all other remedies provided by law.
Secs. 22-19--22-30. Reserved.

DIVISION 2. PLANNING AND ZONING COMMISSION

Sec. 22-31. Creation.
There is created a planning commission.

Sec. 22-32. Membership; term of office; compensation of members; vacancies.
The planning commission shall be composed of seven members and one alternate, who shall be residents of the city, appointed by the governing body. The terms of members shall be 2 years. Any vacancy in membership shall be filled for the unexpired term by the governing body, which shall also have the authority to remove any member. All members shall serve with such compensation as may be determined by the mayor and council from time to time, and, may be reimbursed for actual expenses incurred in connection with their official duties.

Sec. 22-33. Officers; meetings; staff; finances.

(a) The planning commission shall elect one of its appointive members as chairman, who shall serve for one year or until he is reelected or his successor is elected. A second appointive member shall be elected as vice-chairman, and he shall serve for one year or until he is reelected or his successor is elected. The planning commission shall appoint a secretary, who may be an officer or an employee of the City of Austell or of the planning commission. The planning commission shall make its own rules of procedure and determine its time of meeting. All meeting of the planning commission at which official action is taken shall be open to the public and all records of the planning commission shall be public records.

(b) The planning commission may appoint such employees and staff as it may deem necessary for its work and may contract with the state planning commission and city planners and other consultants for such services as it may require. The expenditures of the planning commission, exclusive of gifts, shall be within the amounts appropriated for the purpose by the governing body.

Sec. 22-34. Preparation of development regulations.

It shall be the function and duty of the city planning commission to make such careful and comprehensive surveys and studies of existing conditions and probable future developments and to prepare such plans for physical, social and economic growth as will best promote public health, safety, morals, convenience, property or general welfare, as well as efficiency and economy, in the development of the city. In particular, the planning commission shall have the power and duty to:

(1) Recommend approval of a master plan or parts thereof for the development of the city.
(2) Recommend for adoption to the Mayor and Council a zoning ordinance or resolution and map for the city.
(3) Prepare and recommend for adoption to the Mayor and Council regulations for the subdivision of land within the city, and to administer the regulations that may be adopted.
(4) Review and make recommendations concerning applications for zoning map amendment, conditional use approvals, annexation or other such applications.
(5) Recommend for adoption to the Mayor and Council a plat or an official map showing the exact location of the boundary lines of existing, proposed, extended, widened or narrowed streets, public open spaces or public building sites, together with regulations to control the erection of buildings or other structures within such lines, within the city or a specified portion thereof.

Sec. 22-35. Rules of procedure.

The city planning commission shall adopt such rules and regulations as it may deem advisable for the governing of the commission and adopt such rules and regulations as may be deemed advisable for the public to appear before the planning commission and be heard as to any changes, modifications or amendments to any planning or zoning resolution that may have been passed on by the Mayor and Council.
Secs. 22-36--22-50. Reserved.

DIVISION 3. BOARD OF VARIANCE AND ZONING APPEALS

Sec. 22-51. Creation.

There is created a board of appeals.

Sec. 22-52. Membership; term of office; compensation of members; removal of members.

The board of variance and appeals shall be composed of five members and one alternate. Each member of the Council shall be entitled to appoint one member to the board. Each member appointed by a member of the Council shall serve concurrently with and at the pleasure of the appointing Councilman's term of office and until a successor is appointed. If an appointing Councilman is no longer in office due to a general election or a special election in which more than one year remains in that Councilman's term, any member appointed by that Councilman shall be subject to removal with or without cause and without regard to any unexpired term by the newly elected Councilman filling such seat. The newly elected Councilman shall have the right to appoint a new member to the board in the same manner as

his or her predecessor. The Mayor and Council shall determine the amount of compensation, if any, to be paid to the members of the board of variance and zoning appeals. No person who holds elective public office shall be eligible to serve as a member during the term of such elective office, and the position of any member shall be deemed vacant upon such member qualifying as a candidate for elective public office, except that members may be also members of the planning commission. Any vacancy in the membership shall be filled for the unexpired term in the same manner as the original appointment.

Sec. 22-53. Officers; meetings; rules of procedure.

The board of variance and appeals shall elect one of its members as chairman, who shall serve for one year or until he is reelected or his successor is elected. The board of appeals shall adopt rules in accordance with the provisions of this chapter. Meetings of the board of appeals shall be held at the call of the chairman and at such other times as the board may determine. The chairman, or in his absence the acting chairman, may administer oaths and compel the attendance of witnesses by subpoena. The board of appeals shall keep minutes of its proceedings, showing the vote of each member upon each question or, if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office Community Affairs and shall be a public record.

Sec. 22-54. Powers.

(a) The board of variance and appeals shall have the power to:

(1) Hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by an administrative official in the enforcement of this chapter.
(2) Authorize upon appeal in specific cases such variance from the terms of this chapter as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this chapter will, in an individual case, result in unnecessary hardship, so that the spirit of this chapter shall be observed, public safety and welfare secured, and substantial justice done. The existence of nonconforming use of neighboring land, buildings, or structures in the same district or of permitted or nonconforming uses in other districts shall not constitute a reason for the requested variance. Such variance may be granted in such individual case of unnecessary hardship upon a finding by the board of variance and appeals that:

a. There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape or topography that are not applicable to other lands or structures in the same district;
b. The application of this chapter 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 purposes and intent of this chapter.

No variance may be granted for a use of land or building or structure that is prohibited by this chapter. No variance may be granted that would conflict with or alter a stipulation or condition imposed by the Mayor and Council.

(b) In exercising the powers described in subsection (a) of this section, the board of variance and appeals may, in conformity with the provisions of this chapter, reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination, and to that end shall have all the powers of the Building Official and may issue or direct the issuance of a permit.

Sec. 22-55. Appeal procedure; effect of appeal.

(a) Appeals to the board of variance and appeals may be taken by any person aggrieved or by any officer, department, board or bureau of the city affected by any decision of the Building Official or other City Official based on this ordinance. Such appeal shall be taken within 30 days or as provided by the rules of the board of variance and appeals, by filing with the Building Official and with the board of variance and appeals a written notice of appeal specifying the grounds thereof. All papers constituting the record upon which the action appealed from was taken shall forthwith be transmitted to the Board of Variance and Appeals.

(b) 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 of variance and appeals, 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 stayed otherwise than by a restraining order, which may be granted by the board of appeals or by a court of record on application, on notice to the officer from whom the appeal is taken, and on due cause shown.

(c) The board of appeals shall fix a reasonable time for the hearing of the appeal or other matter referred to it, and give public notice thereof, as well as due notice to the parties in interest, and decide the matter within a reasonable time. Upon the hearing any party may appear in person or by agent or by attorney.

Sec. 22-56. Appeals from decision of board.

Any person or persons severally or jointly aggrieved by any decision of the board of variance and zoning appeals may take an appeal to the superior court. The appeal to the superior court shall be by writ of certiorari. Such appeal may be filed within 30 days from the date of the decision of the board of variance and zoning appeals, and upon failure to file the appeal within 30 days the decision of the board of zoning appeals shall final.
Secs. 22-57--22-70. Reserved.

DIVISION 4. REZONING OR LAND USE PERMIT APPLICATIONS

Sec. 22-71. Generally.

(a) *Prerequisites for processing; contents.* Prior to processing of any application for rezoning or a land use permit, the applicant shall be required to file documentation and follow certain procedures as set forth in this section. The applicant shall be required to file an application with the city containing the following:

(1) A completed application shall be filed on forms prescribed by the City of Austell.
(2) The signatures of the applicant and record titleholder shall appear upon the application.
(3) The application fee which has been established from time to time by resolution of the Mayor and Council shall be paid. A copy of the fee schedule shall be maintained for public inspection in the City of Austell.
(4) The applicant shall submit a current boundary survey and plot plan, to scale, prepared by a registered surveyor or registered engineer. Five (5) copies of site plans shall also include such other information thereon as may be required by the City of Austell, including preliminary plans for development, building locations, parking areas, access points, adjacent streets, land lot lines, buffer areas, future right-of-way, wetlands, floodplains, utilities and retention.
(5) Private sewage disposal must be approved by the county health department, and written approval from the health department must be filed with the application.
(6) The applicant shall submit any other information required by the City of Austell which they deem necessary or desirable in processing the application, which is related to the present or proposed use of the property.
(7) Every application for rezoning involving a request for a nonresidential zoning district shall include a complete written, documented analysis of the impact of the proposed rezoning with respect to each of the following matters:

a. Whether the zoning proposal will permit a use that is suitable in view of the use and development of adjacent and nearby property;
b. Whether the zoning proposal will adversely affect the existing use or usability of adjacent or nearby property;
c. Whether the property to be affected by the zoning proposal has a reasonable economic use as currently zoned;
d. Whether the zoning proposal will result in a use which will or could cause an excessive or burdensome use of existing streets, transportation facilities, utilities or schools;
e. Whether the zoning proposal is in conformity with the policy and intent of the land use plan;
f. Whether there are other existing or changing conditions affecting the use and development of the property which give supporting grounds for either approval or disapproval of the zoning proposal;
g. Whether the development of the property under the zoning proposal will conform to, be a detriment to or enhance the architectural standards, open space requirements and aesthetics of the general neighborhood, considering the current historical and planned uses in the area;
h. Under any proposed zoning classification, whether the use proposed may create a nuisance or is incompatible with existing uses in the area; and
i. Whether due to the size of the proposed use, in either land area or building height, the proposed use would affect the adjoining property, general neighborhood and other uses in the area positively or negatively.

(8) Any application for a rezoning involving a request of more than 75 residential dwelling units or 50,000 square feet of non-residential building space, in single or multiple phases, (exempting redevelopment projects) shall be required to submit a traffic impact study (prepared in accordance with industry accepted standards, including at a minimum, level of service impacts for adjacent roadways and intersections) and mitigation package to address the cumulative effects from the project's impact. Said applicant shall also be required to coordinate and fund any recommended mitigation measures limited to project related improvements with applicable federal, state and local agencies including the Georgia Regional Transportation Authority and the Atlanta Regional Commission.

Any application for a rezoning involving a request of more than 150 residential dwelling units or 100,000 square feet of non-residential building space, in single or multiple phases, (exempting redevelopment projects) shall be required to submit a traffic impact study (prepared in accordance with industry accepted standards, including at a minimum, level of service impacts for adjacent roadways and intersections), the scope of which shall be determined by the Director of the Public Works or his/her designee and shall at a minimum address conditions and impacts resultant from the project within a ten-year scope. Said applicant shall also be required to coordinate and fund any recommended mitigation measures limited to project related improvements with applicable federal, state and local agencies including the Georgia Regional Transportation Authority and the Atlanta Regional Commission.

(b) *Public notice and advertising of hearings.*

(1) The Building Official shall cause to have posted, in a place conspicuous to the nearest public roadway on said property, one (1) or more signs, each of which will not be less than 20 inches x 20 inches and shall include the location of the property, the present zoning classification of the property, the proposed zoning classification of the property, and each of which shall contain information as to the proposed change and the date and time and place of the public hearing before the City Council. No such public hearing shall take place until said signs have been posted for at least fifteen (15) days prior to the Council hearing. In addition to the requirements of O.C.G.A. § 36-66-4, the zoning division shall supply a sign that contains the following language:

(2) The Building Official shall cause to have advertising in the legal organ of the city pursuant to O.C.G.A. § 36-66-4, as amended from time to time. The advertisement shall include a notice of the date, time and place of all public hearings, as well as the nature of the proposed zoning changes.

(c) *Attendance at hearing.* The applicant or representative of the applicant shall be required to attend all public hearings on the application. The failure to attend may result in dismissal with prejudice, rejection of the application or continuance of the hearing at the Mayor and Council's sole discretion. Failure of the applicant or his representative to appear at the next regularly scheduled hearing shall result in automatic dismissal with prejudice. The Building Official may waive the attendance requirement for land use permits based upon medical hardship.

(d) *Withdrawal of application.*

(1) An application may only be withdrawn upon a joint written request of the record titleholder and applicant or their legal counsel. In order to withdraw as of right and without

prejudice, the request to withdraw must be given at the City of Austell at least seven days prior to the hearing before the planning and zoning commission. Applicants or their legal counsel may personally request (via written or verbal request) withdrawal during a planning and zoning commission or Mayor and Council's public hearing, provided that the request is made prior to the close of the public hearing. The public hearing shall be considered closed when announced as such by the planning and zoning commission chairman or City Attorney following presentations by the applicant and opposition during their allotted time period. If permission is denied at such time, the application may not be withdrawn and shall be acted upon in the usual manner. In no event shall an application be withdrawn after the vote by the Mayor and Council. Further, in no event shall an application be withdrawn more than once without prejudicing the right of the applicant or owner to apply for a land use permit or rezoning within 12 months of the first application.

(2) An application which is withdrawn within seven days of the planning and zoning commission hearing without the permission of the planning and zoning commission shall be deemed a rejected application with prejudice.

(3) Applications which have been publicly heard by either the planning and zoning commission or the Mayor and Council and which have been withdrawn without right and without permission by a majority vote as set forth in subparagraph 22-71(d)(1) above shall be deemed a rejected application with prejudice.

(e) *Resubmission of rejected/deleted applications.*

(1) If an application for rezoning is rejected or deleted to another zoning classification, then any portion of the same property may not again be considered for rezoning for a period of 12 months from the date of the original Planning and Zoning Commission's hearing. An applicant may reapply for rezoning to a more restrictive classification than the application previously denied, or denied without prejudice, following the expiration of six months in accordance with O.C.G.A. § 36-66-5, as amended from time to time.

(2) The Mayor and Council may only consider property for rezoning within the six-month time period in connection with settlement of litigation or pursuant to an order by a court of competent jurisdiction. The Mayor and Council shall advertise, post the property, and conduct another public hearing prior to taking such action.

Sec. 22-72. Staff report.

After the filing of a proper application, the City of Austell shall make a written recommendation and zoning analysis (staff report) relating to the following:

(1) Whether the zoning proposal will permit a use that is suitable in view of the use and development of adjacent and nearby property;

(2) Whether the zoning proposal will adversely affect the existing use or usability of adjacent or nearby property;

(3) Whether the zoning proposal will result in a use which will or could cause an excessive or burdensome use of existing streets, transportation facilities, utilities or schools;

(4) Whether the zoning proposal is in conformity with the policy and intent of the land use plan;

(5) Whether there are other existing or changing conditions affecting the use and development of the property which give supporting grounds for either approval or disapproval of the zoning proposal;

(6) Whether the development of the property under the zoning proposal will conform to, be a detriment to or enhance the architectural standards, open space requirements and aesthetics of the general neighborhood, considering the current historical and planned uses in the area;
(7) Under any proposed zoning classification, whether the use proposed may create a nuisance or is incompatible with existing uses in the area; and
(8) Whether due to the size of the proposed use, in either land area or building height, the proposed use would affect the adjoining property, general neighborhood and other uses in the area positively or negatively.

Sec. 22-73. Action by Planning and Zoning Commission.

(a) The planning and zoning commission shall conduct a public hearing on each application for a land use permit or rezoning in accordance with a schedule and procedures adopted by the Mayor and Council. A staff report on each application shall be submitted to and considered by the planning and zoning commission at the public hearing. The planning and zoning commission shall investigate and consider each of the matters listed in the staff report.

(b) As to each application, the planning and zoning commission shall make a recommendation for approval, denial, deferral, continuance, hold, withdrawal without prejudice or no recommendation. The planning and zoning commission shall not hold any application for more than two additional hearing dates, unless the application seeks to add additional property in accordance with the application procedures described in this chapter. Written minutes of the planning and zoning commission's recommendation to the Mayor and Council shall be prepared, maintained and submitted to the Mayor and Council prior to its hearing. Additionally, the staff report and applicant's report shall be submitted to the Mayor and Council. All documents shall thereafter become public record.

Sec. 22-74. Action by Mayor and Council.

(a) Before taking action on an application for rezoning and after receipt of the staff report, the planning and zoning commission's recommendation and the applicant's report, where required, the Mayor and Council shall conduct a public hearing on the application in accordance with rules and procedures as may be adopted by the Mayor and Council from time to time. Prior to or in conjunction with the hearing, the Mayor and Council shall review the applicant's report, if any, the staff report and the planning and zoning commission's recommendation.

(b) So that the purpose of this chapter will be served and the health, public safety and general welfare secured, the Mayor and Council may approve or deny the application, reduce the land area for which the application is made, change the zoning classification, district or category requested, either to a more restrictive zoning classification, district of category, add or delete conditions of the application, including but not limited to site-specific conditions, or allow an application to be withdrawn without prejudice with respect to the 12-month limitation of this division. An action by the Mayor and Council to defer or continue the application shall include a statement of the date and time of the next meeting at which the application will be considered, which statement shall constitute public notice of the hearing on the application, and no further notice except posting and legal advertising is required.

(c) The decision by the Mayor and Council to approve in whole or part, reject, condition or delete an application for rezoning shall be based on, but not limited to, a consideration of the following criteria:
(1) Whether the zoning proposal will permit a use that is suitable in view of the use and development of adjacent and nearby property;
(2) Whether the zoning proposal will adversely affect the existing use or usability of adjacent or nearby property;
(3) Whether the zoning proposal will result in a use which will or could cause an excessive or burdensome use of existing streets, transportation facilities, utilities or schools;
(4) Whether the zoning proposal is in conformity with the policy and intent of the land use plan;
(5) Whether there are other existing or changing conditions affecting the use and development of the property which give supporting grounds for either approval or disapproval of the zoning proposal;
(6) Whether the development of the property under the zoning proposal will conform to, be a detriment to or enhance the architectural standards, open space requirements and aesthetics of the general neighborhood, considering the current historical and planned uses in the area;
(7) Under any proposed zoning classification, whether the use proposed may create a nuisance or is incompatible with existing uses in the area; and
(8) Whether due to the size of the proposed use, in either land area or building height, the proposed use would affect the adjoining property, general neighborhood and other uses in the area positively or negatively.

Sec. 22-75. Zoning approval does not ensure utilities or infrastructure.

Approval of an application for rezoning does not ensure the availability of utilities or other infrastructure in connection with development of the site.

Sec. 22-76. Site plan/stipulation amendments.

On any rezoning which is conditioned upon a site plan, proposed minor modifications which do not alter or conflict with the basic intent of the plan may be approved by the Building Official after presentation and approval by the Mayor and Council at any regularly scheduled meeting or hearing. Also, on any rezoning which is conditioned upon a stipulation or stipulations, proposed minor amendments to the stipulations which do not alter or conflict with the basic intent of the rezoning on which they apply may be approved by the Building Official after, first, determination by the Mayor and Council that the amendments are minor and, second, approval of the amendments by the Mayor and Council at any regularly scheduled meeting or hearing. All other modifications must be advertised and rezoned in accordance with the provisions set forth in this division.

Sec. 22-77. Appeal of rezoning decisions.

Any person, persons or entities jointly or severally aggrieved by any decision of the Mayor and Council on a rezoning application may take an appeal to the Superior Court of Cobb County. The appeal shall be a de novo determination of the decision before the judge of the superior court without a jury. Any appeal must be filed within 30 days of the decision by the Mayor and Council, and, upon failure to file the appeal within 30 days, the decision of the

Mayor and Council shall be final. For the purpose of this section, the appeal time shall run from the day the particular vote or action is taken.

Sec. 22-78. Appeal of decisions on land use and special land use permits.

Any person, persons or entities jointly or severally aggrieved by any decision by the Mayor and Council on land use or a special land use permit application may take an appeal to the Superior Court of Cobb County. The quasijudicial appeal shall be limited to the proceedings and record before the Mayor and Council. Any appeal must be filed within 30 days of the decision of the Mayor and Council, and, upon failure to file the appeal within 30 days, the decision of the Mayor and Council shall be final. For the purpose of this section, the appeal time shall run from the day the particular vote or action is taken.

Sec. 22-79. Zoning Status of Annexed Properties.

It is hereby ordained that any and all property annexed from the unincorporated area of Cobb County or Douglas County to the corporate limits of the City of Austell, shall, upon annexation be automatically zoned to the same zoning district classification, regulations, and any applicable conditions of zoning, as were applicable to such property under the Zoning Ordinance of the county immediately prior to annexation.

In the event that said zoning district classification is not provided for by the City of Austell Zoning Ordinance, then such property shall assume the zoning district classification under the City of Austell Zoning Ordinance which is most similar in terms of permitted uses and zoning district regulations held by the property under the county zoning ordinance. In such event, all conditions of zoning which were applicable to such property under the county zoning ordinance shall also continue to apply to said property upon annexation to the corporate limits to the City of Austell.

The classification, district regulations, and conditions of zoning applicable to the property at the time of annexation shall remain in effect until reclassified by amendment to this ordinance as provided herein.
Secs. 22-80--22-100. Reserved.

ARTICLE III. ZONING DISTRICTS ESTABLISHED; ZONING MAP

Sec. 22-101. Zoning districts enumerated.

For the purpose of clarification, the categories of zoning districts are listed in this section in order, with number 1 being the most restricted and number 40 being the least restricted. (Missing numbers are reserved for future use.)

1. R-80
3. RR
5. R-40
7. R-30
9. R-20
11. R-15
13. R-10
14. PUD
15. RD
17. RA-6
19. RM-8
21. FST
23. RM-12
25. MHP
26. RSL(nonsupportive)
27. O&I
29. OS
31. NS
33. PSC
35. CBD
37. GC
39. LI
40. HI

Sec. 22-102. General description of zoning districts.

The following general descriptions apply to the various zoning districts:

(1) *R-80 (single-family residential, 80,000-square-foot lot size).* The R-80 district is established to provide locations for single-family residential uses or residentially compatible institutional and recreational uses which are within or on the edge of properties delineated for any residential category as defined and shown on the Austell Comprehensive Plan: A Policy Guide, adopted July 2, 2007. When residentially compatible institutional and recreational uses are developed within the R-80 district, they should be designed and built to ensure intensity and density compatibility with adjacent single-family detached dwellings and otherwise to implement the stated purpose and intent of this chapter.

(2) *RR (rural residential).* The RR district is established to provide locations for large useable areas for limited residential, agricultural, park and open space needs. This district also serves to correlate growth with utility, service and transportation needs until urbanization is warranted. RR

uses or residentially compatible institutional and recreational uses should be located within or on the edge of properties delineated for any residential category as defined and shown on the Austell Comprehensive Plan: A Policy Guide, adopted July 2, 2007. When residentially compatible institutional and recreational uses are developed within the RR district, they should be designed and built to ensure intensity and density compatibility with adjacent single-family detached dwellings and otherwise to implement the stated purpose and intent of this chapter.

(3) *R-40 (single-family residential, 40,000-square-foot lot size).* The R-40 district is established to provide locations for single-family residential uses or residentially compatible institutional and recreational uses which are within or on the edge of properties delineated for any residential category as defined and shown on the Austell Comprehensive Plan: A Policy Guide, adopted July 2, 2007. When residentially compatible institutional and recreational uses are developed within the R-40 district, they should be designed and built to ensure intensity and density compatibility with adjacent single-family detached dwellings and otherwise to implement the stated purpose and intent of this chapter.

(4) *R-30 (single-family residential, 30,000-square-foot lot size).* The R-30 district is established to provide locations for single-family residential uses or residentially compatible institutional and recreational uses which are within or on the edge of properties delineated for any residential category as defined and shown on the Austell Comprehensive Plan: A Policy Guide, adopted July 2, 2007. When residentially compatible institutional and recreational uses are developed within the R-30 district, they should be designed and built to ensure intensity and density compatibility with adjacent single-family detached dwellings and otherwise to implement the stated purpose and intent of this chapter.

(5) *R-20 (single-family residential, 20,000-square-foot lot size).* The R-20 district is established to provide locations for single-family residential uses or residentially compatible institutional and recreational uses which are within or on the edge of properties delineated for any residential category as defined and shown on the Austell Comprehensive Plan: A Policy Guide, adopted July 2, 2007. When residentially compatible institutional and recreational uses are developed within the R-20 district, they should be designed and built to ensure intensity and density compatibility with adjacent single-family detached dwellings and otherwise to implement the stated purpose and intent of this chapter.

(6) *R-15 (single-family residential, 15,000-square-foot lot size).* The R-15 district is established to provide locations for single-family residential uses or residentially compatible institutional and recreational uses which are within or on the edge of properties delineated for any residential category as defined and shown on the Austell Comprehensive Plan: A Policy Guide, adopted July 2, 2007. When residentially compatible institutional and recreational uses are developed within the R-15 district, they should be designed and built to ensure intensity and density compatibility with adjacent single-family detached dwellings and otherwise to implement the stated purpose and intent of this chapter.

(7) *R-10 (single-family residential, 10,000-square-foot lot size).* The R-10 district is established to provide locations for affordable single family detached residential uses or residentially compatible institutional and recreational uses which are within or on the edge of properties

delineated for the medium density residential category as defined and shown on the Austell Comprehensive Plan: A Policy Guide, adopted July 2, 2007. When residentially compatible institutional and recreational uses are developed within the R-10 district, they should be designed and built to ensure intensity and density compatibility with adjacent single-family detached dwellings and otherwise to implement the stated purpose and intent of this chapter.

(7) *RD (residential duplex).* The RD district is established to provide locations for the development of affordable single-family detached or attached owner-occupied residential dwelling units, including duplexes. The dwelling units are to be designed so as to be placed on an individual lot attached to another dwelling unit or on an adjoining lot where the units will be attached by common party wall. This residential use is designed to be located within or on the edge of properties delineated for medium density residential categories as defined and shown on the Austell Comprehensive Plan: A Policy Guide, adopted July 2, 2007. When residentially compatible institutional and recreational uses are developed within the RD district, they should be designed and built to ensure intensity and density compatibility with adjacent single-family detached dwellings and otherwise to implement the stated purpose and intent of this chapter.

(8) *RA-6 (single-family attached/detached residential).* The RA-6 district is established to provide locations for the development of affordable single-family detached or attached residential dwelling units including the combination of duplexes, triplexes and quadruplexes. The dwelling units are to be designed so as to be placed on an individual lot attached to another dwelling unit or on an adjoining lot where the units will be attached by a common party wall. This residential use is designed to be located within or on the edge of properties delineated for medium density residential categories as defined and shown on the Austell Comprehensive Plan: A Policy Guide, adopted July 2, 2007. When residentially compatible institutional and recreational uses are developed within the RA-6 district, they should be designed and built to ensure intensity and density compatibility with adjacent single-family detached dwellings and otherwise to implement the stated purpose and intent of this chapter.

(9) *PUD (Planned Unit Development):* The PUD District is established to encourage and provide flexible site plan and building arrangements under a unified plan of development rather than a lot-by-lot regulation. The developer benefits from better land utilization and design flexibility. Review of an approval of the development plan by the Mayor and Council provides an opportunity to assure that the development will be in harmony with the character of the neighborhood in which the development is located. The PUD may be located within any residential category as defined by the Austell Comprehensive Plan: A Policy Guide adopted July2, 2007. The PUD is not intended to encourage greater density of development, but rather to encourage ingenuity and resourcefulness in land planning to assure the provision of park and recreation land and facilities for the use of the occupants of the development in order to obtain a more desirable environment. PUD development shall be consistent with surrounding development.

(10) *RM-8 (residential multifamily).* The RM-8 district is established to provide locations for multifamily residential uses or residentially compatible institutional and recreational uses which are within properties delineated for medium and high density residential categories as defined and shown on the Austell Comprehensive Plan: A Policy Guide, adopted July 2, 2007. When

residentially compatible institutional and recreational uses are developed within the RM-8 district, they should be designed and built to ensure intensity and density compatibility with adjacent multifamily detached dwellings and otherwise to implement the stated purpose and intent of this chapter.

(11) *FST (fee simple townhouse residential).* The FST district is established to provide locations for affordable attached residential dwelling units (six, eight or ten units per acre) or residentially compatible institutional and recreational uses which are within or on the edge of properties delineated for any medium or high density residential categories as defined and shown on the Austell Comprehensive Plan: A Policy Guide, adopted July 2, 2007. When residentially compatible institutional and recreational uses are developed within the FST district, they should be designed and built to ensure intensity and density compatibility with adjacent single-family detached dwellings and otherwise to implement the stated purpose and intent of this chapter.

(12) *RM-12 (residential multifamily).* The RM-12 district is established to provide locations for multifamily residential uses or residentially compatible institutional and recreational uses which are within properties delineated for high density residential categories as defined and shown on the Austell Comprehensive Plan: A Policy Guide, adopted July 2, 2007. When residentially compatible institutional and recreational uses are developed within the RM-12 district, they should be designed and built to ensure intensity and density compatibility with adjacent multifamily detached dwellings and otherwise to implement the stated purpose and intent of this chapter.

(13) *MHP (mobile home park).* The MHP district is established to provide for rental of individual pads or lots for the placement of mobile homes or trailers.

(14) *RSL-nonsupportive (residential senior living facilities).* The RSL district is established to provide locations for the development of residential living facilities for tenants age 62 and older which shall not be established as a precedent for any other residential or non residential district. This residential use is designed to be located within properties delineated as traditional neighborhood areas as defined and shown on the City of Austell Comprehensive Plan: A Policy Guide, adopted July 2, 2007.

(15) *O&I (office and institutional).* The O&I district is established to provide locations for nonretail commercial uses such as offices and financial institutions, which are on properties delineated within or on the edge of an in-town or major highway corridor as defined and shown on the Austell Comprehensive Plan: A Policy Guide, adopted July 2, 2007. The office and institutional district is designed primarily to provide for four-story and smaller office developments, office uses, motels, hotels, banking and professional offices that complement and provide step down nodal zoning away from more intensive commercial uses and otherwise to implement the stated purpose of this chapter.

(16) *OS (office/service).* The OS district is established to provide locations for office and business distribution/service facilities, and assembly processes which do not emit noise, vibration, smoke, gas, fumes, odors or radiation and are located entirely within an enclosed building which do not involve manufacturing or fabrication of any products. No principal retail

sales are allowed unless specified in this article. These uses are allowed on properties delineated within a, Industrial Compatible Area or an industrial category as defined and shown on the Austell Comprehensive Plan: A Policy Guide, adopted July 2, 2007.

(17) *NS (neighborhood shopping).* The NS district is established to provide locations for retail commercial and service uses which are designed and oriented to serve two to four neighborhoods and are located in areas delineated within an in-town or major highway corridor as defined and shown on the Austell Comprehensive Plan: A Policy Guide, adopted July 2, 2007.

(18) *PSC (planned shopping center).* The PSC district is established to provide locations for retail commercial and service uses which are designed and oriented to serve several neighborhoods making up a community. Projects developed within the PSC zoning district should be done as compact, unified centers. Projects developed within the PSC zoning district should occupy a quadrant of an intersection, with ingress and egress only from a major collector street or state highway.

(19) *CBD (Central Business District):* The CBD is established to provide location for limited vehicular and pedestrian oriented businesses which are characteristic of the City's central businesses as defined and shown on the Austell Comprehensive Plan: A Policy Guide adopted July 2, 2007.

(20) *GC (general commercial).* The GC district is established to provide locations for retail commercial and service uses which are oriented toward automotive businesses, are land intensive with a need for major road access and visibility, and are located in areas delineated within an in-town or major highway corridor as defined and shown on the Austell Comprehensive Plan: A Policy Guide, adopted July 2, 2007.

(21) *LI (light industrial).* The LI district is established to provide locations for light industrial uses such as low intensity automobile repair and service, animal care facilities, commercial greenhouses, livestock, poultry, business distribution centers, warehouse and storage, and transportation terminals, which are on properties delineated within or on the perimeter of an industrial-compatible or industrial category as defined and shown on the Austell Comprehensive Plan: A Policy Guide, adopted July 2, 2007. When located on the perimeter of an industrial node, the LI district should provide for uses that are low in intensity and scale such as to ensure compatibility with surrounding properties.

(22) *HI (heavy industrial).* The HI district is established to provide locations for heavy industrial uses such as intensive automobile repair and service, heavy manufacturing, chemical manufacturing and storage, petroleum or petrochemical storage, warehousing and storage, which are on properties delineated within an industrial category as defined and shown on the Austell Comprehensive Plan: A Policy Guide, adopted July 2, 2007. When located on the perimeter of an industrial node, the HI district should provide for uses that are lower in intensity and scale such as to ensure compatibility with surrounding properties.

Sec. 22-103. Zoning map.

Subject to the express provisions in this chapter, all properties shall be zoned as set forth on the official city zoning map, as amended from time to time. The maps shall be kept under the custody of the City of Austell Community Affairs Department, and shall be subject to public inspection. The official city zoning maps are incorporated in this chapter by express reference.

Sec. 22-104. Interpretation of zoning district maps.

In interpreting the zoning district maps, the following rules shall apply:

(1) Where district boundaries are indicated as approximately following the boundary lines of streets, alleys, railroads, public lands or channels or bodies of water, such lines shall be construed to be such boundaries.

(2) Where such boundaries are indicated so that they approximately follow the lines of lots or other parcels of record and are not more than ten feet distant therefrom, such lot or parcel lines shall be construed to be such boundaries.

(3) If the rules set out in subsections (a) and (b) of this section do not apply, the location of a district boundary, unless the boundary is indicated by dimensions shown on the map, shall be determined by use of the scale appearing thereon.

Sec. 22-105. Resolution of conflicts between maps and minutes.

It is recognized that discrepancies or conflicts can occur between the official zoning maps and the official city clerk's records (minutes) of actions taken by the Mayor and Council with respect to a specific parcel, either because of scriveners' errors or in amendment of the official maps. In the event of such a discrepancy or conflict, the official city clerk's record shall prevail.

Secs. 22-106--22-120. Reserved.

ARTICLE IV. DISTRICT REGULATIONS

Sec. 22-121. Summary of bulk regulations.

TABLE INSET:

District	Designation	Min. Lot Area	Min./Max Acreage Required	Units per Acre/ Max. FAR	Min. Floor Area (sq. ft.)	Min. Lot Width at Front Setback	Minimum Front Yard Setback 1			Major Side Yard 2	Min. Side Yard 3	Min. Rear Yard 4	Max. Coverage (%)	Max. Height
							Arterial	Collector	Local					
Rural Residential	RR	40,000 sq. ft.	N/A	1.0	1,050	100 ft.	50 ft.	50 ft.	50 ft.	25 or 35 ft.	25 ft.	35 ft.	25%	35 ft.
Single-Family Detached:														
2 acres	R-80	80,000 sq. ft.	N/A	0.5	1,800	75/50* ft.	60 ft.	60 ft.	60 ft.	25 or 35 ft.	25 ft.	50 ft.	25%	35 ft.
1 acre	R-40	40,000 sq. ft.	N/A	1.0	1,800	75/50* ft.	50 ft.	50 ft.	45 ft.	25 or 35 ft.	15 ft.	40 ft.	25%	35 ft.
3/4 acre	R-30	30,000 sq. ft.	N/A	1.1	1,800	75/50* ft.	50 ft.	50 ft.	45 ft.	25 or 35 ft.	12 ft.	40 ft.	25%	35 ft.
1/2 acre	R-20	20,000 sq. ft.	N/A	1.75	1,800	75/50* ft.	40 ft.	40 ft.	35 ft.	25 or 35 ft.	10 ft	35 ft.	35%	35 ft.
1/3 acre	R-15	15,000 sq. ft.	N/A	2.1	1,800	75/50* ft.	40 ft.	40 ft.	35 ft.	25 or 35 ft.	10 ft.	30 ft.	35%	35 ft.
¼ acre	R-10	10,000 sq. ft	N/A	3.5	1,600	75/50* ft.	40 ft.	40 ft.	40/25** ft.	15 or 25 ft.	20†/ or 5** ft.	40†/ or 20** ft.	30%	35 ft.
Single-Family, Attached or Detached: (If single-family residences are attached, there must be thirty (30) feet between end units														
Cluster Residential	RA-6	5,500 sq. ft.	80,000 sq. ft./20 ac.	6.	950	70/50* ft.	50 ft.	50 ft.	40/25** ft	20 or 35 ft.	35†/ 5** ft.	40†/ 30** ft.	30%	35 ft.
Other Residential														
Residential Duplex	RD	20,000 sq. ft.	N/A	4	700/unit	75/50* ft.	50 ft.	50 ft	35 ft.	25 or 35 ft.	35†/ 10** ft	35† or 25** ft	35%	2 stories 35 ft.
Multiple-Family (8 units per acre)	Rm-8	80,000 sq. ft.	N/A	8	1,600 2,750 3,900 E 450	75 ft.	75 ft.	50 ft.	50 ft.	35 ft.	35 ft.	40 ft	25%	2 storie 35 ft.
Fee Simple Townhouse, Maximum 6 units per row	FST	80,000 sq. ft	20 acres	10	1BR-900 2BR-1,000	20/End Unit 30 ft.	50 ft.	50 ft.	35 or 25** ft	25 or 35 ft	40†/10**/0‡ ft.	35† or 25** ft.	30%	2 1/2 stories 35 ft.
Multiple-Family (12 units per acre)	RM-12	80,000 sq. ft	N/A	12	1,600 2,750 3,900 E 450	75 ft.	75 ft.	50 ft.	50 ft.	35 ft.	35 ft	40 ft.	35%	2 1/2stories 35 ft.
Mobile Home Park	MHP	See District Regulations												

District	Designation	Min. Lot Area	Min./Max Acreage Required	Units per Acre/ Max. FAR	Min. Floor Area (sq. ft.)	Min. Lot Width at Front Setback	Minimum Front Yard Setback 1			Major Side Yard 2	Min. Side Yard 3	Min. Rear Yard 4	Max. Coverage (%)	Max. Height
							Arterial	Collector	Local					
Residential Senior Living (nonsupportive)	RSL	See District Regulations												
Office/Services	OS	40,000 sq.	N/A	N/A	N/A	75 ft.	50 ft.	50 ft.	50 ft.	25 or 35 ft.	15 ft.	30 ft.	N/A	4 stories
Office/Institutional	OI	20,000 sq. ft.	N/A	N/A	N/A	60 ft.	50 ft.	40 ft.	40 ft.	25 or 35 ft.	15 ft.	30 ft.	N/A	4 stories
Neighborhood Shopping	NS	20,000 sq. ft.	N/A	N/A	N/A	60 ft.	50 ft.	40 ft.	40 ft.	25 or 35 ft.	15 ft.	30 ft.	N/A	35 ft.
Planned Shopping Center	PSC	200,000 sq. ft.	5 ac./N/A	N/A	N/A	200 ft.	100 ft.	100 ft.	**	50 ft.	50 ft.	50 ft.	N/A	75 ft.
General Commercial	GC	20,000 sq. ft.	N/A	N/A	N/A	60 ft.	50 ft.	40 ft.	40 ft.	25 or 35 ft.	10 ft.	30 ft.	N/A	4 stories
Central Business District	CBD	2,500 sp ft.	N/A	N/A	N/A	25 ft.	0 ft.	0 ft.	0 ft.	15 ft.	0 ft.	20 ft.	N/A	4 stories
Industrial														
Light Industrial	LI	40,000 sq. ft.	N/A			100 ft.	75 ft.	50 ft.	50 ft.	25 or 35 ft.	20 ft.	30 ft.		4 stories
Heavy Industrial	HI	40,000 sq. ft.	N/A			150 ft.	75 ft.	50 ft.	50 ft.	25 or 35 ft.	20 ft.	40 ft.		4 stories

Explanation of Symbols

* Distance required fronting cul-de-sac

** Distance if interior portion of development (interior shall be considered the portion which does not abut an exterior property boundary)

† Distance if not interior portion of development

‡ Attached units

Notes:

1. Minimum front yard setback is measured from the future public right-of-way (see diagrams within each district for specific setback requirements)
2. Major side yard setback is measured from the future public right-of-way (see diagrams within each district for specific setback applications)
3. See diagrams within each district for specific setback applications.
4. See diagrams within each district for specific setback applications.

Sec. 22-122. Summary of uses.*

TABLE INSET:

This chart is provided for the convenience of the users; however, please consult the Permitted Uses or Special Exception Uses section of the specific zoning district(s) for possible use limitations for specific permitted uses or special exception uses.

TYPE OF USE	R-80	RR	R-40	R-30	R-20	R-15	R-10
Accessory retail sales and services							
Adult entertainment establishments							
Agricultural produce stands		P					
Ambulance services							
Ambulance services, if accessory to hospitals or funeral homes							
Amphitheaters							
Amusement centers							
Ancillary retail sales							
Animal hospitals							
Appliance repair (major)							
Arcades							
Asphalt plants							
Assembly halls							
Athletic and health clubs							
Automobile, truck, and trailer lease and rental facilities (accessory use)							
Automobile, truck, and trailer lease and rental facilities (principal use)							
Automobile and truck sales and service facilities							
Automotive paint and body repair shops							
Automotive parking lots or garages							
Automotive repair and maintenance facilities							
Automotive salvage and wrecking yards							
Automobile storage yards and wrecker service							
Automotive upholstery shops							
Aviation airports (private)							
Banks/financial institutions with drive-in establishments and/or automated transfer machines							

TYPE OF USE	R-80	RR	R-40	R-30	R-20	R-15	R-10
Billiards and pool halls							
Bio-medical waste transfer and disposal facilities							
Boat sales and service establishments							
Breeding and boarding kennels							
Building materials stores							
Bus stations							
Bus stations for freight							
Car washes							
Cemeteries	SE	SE	SE	SE	SE	SE	SE
Chemical plants or storage facilities							
Chipping, grinding or reduction of materials							
Churches, chapels, temples, synagogues, and other places of worship	SLUP	SLUP	SLUP	SLUP	SLUP	SLUP	SLUP
Clinics							
Clubs or lodges (non-commercial)							
Coliseums, stadiums, and convention centers (privately owned)							
Colleges and universities (private), including but not limited to research and training facilities							
Commercial greenhouses and plant nurseries		P					
Commercial indoor recreation uses							
Commercial outdoor recreation uses							
Commercial recreation restaurant							
Community fairs							
Community retail uses							
Composting facilities							
Concrete plants							
Condominiums							
Contractors (general, heavy, special)							
Convenience food stores with self-service fuel sales							
Corporate or administrative offices for any permitted uses							
Crematories, human or animal							
Cultural facilities							
Customary home occupations	P	P	P	P	P	P	P

TYPE OF USE	R-80	RR	R-40	R-30	R-20	R-15	R-10
Dairies		R					
Designated recycling collection locations							
Drive-in theaters							
Dry cleaning plants							
Eating and drinking establishments (including drive-in fast food restaurants)							
Electrical supply stores							
Emissions/inspection stations (No temporary buildings/tents to be utilized after June 30, 1998)							
Executive golf courses	P	P	P	P	P	P	P
Extended stay motel and hotel							
Exterminating facilities (insect and/or rodent)							
Farm and garden supply stores		P					
Farm equipment stores/repair establishments							
Farmers markets (fully enclosed)							
Field crops							
Film developing and printing facilities							
Flea markets							
Fraternity and sorority houses/residence halls							
Freight terminals							
Fruit trees, nuts, vegetables							
Fuel and ice dealers							
Full service gasoline stations							
Funeral homes							
Golf courses (Par 3)	P	P	P	P	P	P	P
Golf courses (18-hole regulation; public and private)	P	P	P	P	P	P	P
Group homes	SLUP	SLUP	SLUP	SLUP	SLUP	SLUP	SLUP
Halfway houses	SLUP	SLUP	SLUP	SLUP	SLUP	SLUP	SLUP
Ham radio (amateur)	SE	SE	SE	SE	SE	SE	SE
Hazardous waste sites							
Heavy automotive repair establishments							
Heavy manufacturing establishments							
Heavy repair service and trade shops							
Helicopter landing areas							

TYPE OF USE	R-80	RR	R-40	R-30	R-20	R-15	R-10
High-rise apartments							
Hospitals							
Hotels							
In-home day care	P	P	P	P	P	P	P
Landfills (private)							
Laundry and dry cleaning pick-up establishments							
Laundry and dry cleaning establishments (work done on site)							
Light automotive repair establishments							
Light manufacturing establishments							
Linen and diaper services							
Livestock, non-domestic and wild animals, and poultry	P	P					
Livestock sales pavilions		P					
Machine shops							
Mausoleums	SLUP	SLUP	SLUP	SLUP	SLUP	SLUP	SLUP
Medical and dental laboratories, provided that no chemicals are manufactured on site							
Mining operations							
Motels							
Motorcycle, ATV, and three-wheel vehicle sales and service facilities							
Multi-family dwelling units							
Neighborhood retail uses							
Newspaper publishing facilities							
Nightclubs							
Non-automotive repair service establishments							
Non-profit (seasonal use) fishing lakes	P	P	P	P	P	P	P
Nursery schools and child day care centers							
Offices not elsewhere classified							
Office service and supply establishments							
Other consumer goods and services							
Other facilities for disposal of the deceased	SLUP	SLUP	SLUP	SLUP	SLUP	SLUP	SLUP
Other service establishments							
Outdoor commercial racing (motorcycle, automobile, truck, tractor, and motorized vehicles)							

TYPE OF USE	R-80	RR	R-40	R-30	R-20	R-15	R-10
Outdoor golf driving ranges		P					
Overnight travel trailer parks							
Pain Clinic and pain management clinic							
Parking for vehicles							
Pawn shops							
Petroleum or bulk storage stations							
Photography studios							
Plumbing and/or heating equipment dealers							
Poultry hatcheries		P					
Printing, publishing, and lithography establishments							
Private community centers	SLUP	SLUP	SLUP	SLUP	SLUP	SLUP	SLUP
Private landfill/ composting centers/ recycling centers							
Private parks	SLUP	SLUP	SLUP	SLUP	SLUP	SLUP	SLUP
Private schools of general and special education	SLUP	SLUP	SLUP	SLUP	SLUP	SLUP	SLUP
Pro shops (accessory to driving ranges/golf courses)							
Professional offices							
Radio and television stations							
Radio, television, and other communication towers and antennae	P	P	P	P	P	P	P
Rail stations							
Railroad car classification yards							
Railroad stations for freight							
Recreation grounds other than tennis courts and golf courses							
Research and development centers							
Research testing laboratories							
Rest/personal care/convalescent homes							
Reupholstery and furniture repair establishments							
Rooming and boarding houses							
Sawmills							
Sawmills (temporary)							
Self-service laundry facilities							
Self-service storage facilities							

TYPE OF USE	R-80	RR	R-40	R-30	R-20	R-15	R-10
Shelters (homeless)							
Signs and outdoor advertising facilities							
Single-family dwelling units (attached)							
Single-family dwelling units (detached)	P	P	P	P	P	P	P
Studios and supplies							
Tattoo Parlor							
Taxi stands and dispatching agencies							
Telephone business offices							
Temporary uses	P	P	P	P	P	P	P
Theaters							
Tire disposal storage (used or discarded)							
Tire retreading and recapping facilities							
Townhouse dwelling units (attached)							
Trailer salesrooms and sales lots							
Transportation equipment storage and maintenance facilities							
Truck terminals							
Tutoring or learning centers							
Two-family dwelling units							
Utility facilities (private)							
Vending machine sales, service, rental, or repair establishments							
Vocational schools (commercial)							
Warehouse and storage facilities							
Wholesale sales offices							
Wholesale trade and distribution facilities							
Wholesale trade offices in conjunction with office showrooms							
Zoos							

TYPE OF USE	PUD	RA-6	RM-8	FST	RM-12	RD	MHP	RSL
Accessory retail sales and services								
Adult entertainment establishments								
Agricultural produce stands								
Ambulance services								
Ambulance services, if accessory to hospitals or funeral homes								
Amphitheaters								
Amusement centers								
Ancillary retail sales								
Animal hospitals								
Appliance repair (major)								
Arcades								
Asphalt plants								
Assembly halls								
Athletic and health clubs								
Automobile, truck, and trailer lease and rental facilities (accessory use)								
Automobile, truck, and trailer lease and rental facilities (principal use)								
Automobile and truck sales and service facilities								
Automotive paint and body repair shops								
Automotive parking lots or garages								
Automotive repair and maintenance facilities								
Automotive salvage and wrecking yards								
Automobile storage yards and wrecker service								
Automotive upholstery shops								
Aviation airports (private)								
Banks/financial institutions with drive-in establishments and/or automated transfer machines								
Billiards and pool halls								
Bio-medical waste transfer and disposal facilities								

TYPE OF USE	PUD	RA-6	RM-8	FST	RM-12	RD	MHP	RSL
Boat Sales and service establishments								
Breeding and boarding kennels								
Building materials stores								
Bus stations								
Bus stations for freight								
Car washes								
Cemeteries		SE	SE	SE	SE	SE		
Chemical plants or storage facilities								
Chipping, grinding or reduction of materials								
Churches, chapels, temples, synagogues, and other places of worship								
Clinics								
Clubs or lodges (non-commercial)								
Coliseums, stadiums, and convention centers (privately owned)								
Colleges and universities (private), including but not limited to research and training facilities								
Commercial greenhouses and plant nurseries								
Commercial indoor recreation uses								
Commercial outdoor recreation uses								
Commercial recreation restaurant								
Community fairs								
Community retail uses								
Composting facilities								
Concrete plants								
Condominiums	P	P	P		P			
Contractors (general, heavy, special)								
Convenience food stores with self-service fuel sales								
Corporate or administrative offices for any permitted uses								
Crematories, human or animal								
Cultural facilities								
Customary home occupations	P	P	P	P	P	P		

TYPE OF USE	PUD	RA-6	RM-8	FST	RM-12	RD	MHP	RSL
Dairies								
Designated recycling collection locations								
Drive-in theaters								
Dry cleaning plants								
Eating and drinking establishments (including drive-in fast food restaurants)								
Electrical supply stores								
Emissions/inspection stations (No temporary buildings/tents to be utilized after June 30, 1998)								
Executive golf courses	P	P	P	P	P	P		
Extended stay motel and hotel								
Exterminating facilities (insect and/or rodent)								
Farm and garden supply stores								
Farm equipment stores/repair establishments								
Farmers markets (fully enclosed)								
Field crops								
Film developing and printing facilities								
Flea markets								
Fraternity and sorority houses/residence halls		SLUP	SLUP		SLUP			
Freight terminals								
Fruit trees, nuts, vegetables								
Fuel and ice dealers								
Full service gasoline stations								
Funeral homes								
Golf courses (Par 3)	P	P	P	P	P	P		
Golf courses (18-hole regulation; public and private)	P	P	P	P	P	P		
Group homes	SLUP	SLUP	SLUP	SLUP	SLUP	SLUP		
Halfway houses	SLUP	SLUP	SLUP	SLUP	SLUP	SLUP		
Ham radio (amateur)	SE		SE	SE	SE	SE		
Hazardous waste sites								
Heavy automotive repair establishments								
Heavy manufacturing establishments								
Heavy repair service and trade shops								
Helicopter landing areas								

TYPE OF USE	PUD	RA-6	RM-8	FST	RM-12	RD	MHP	RSL
High-rise apartments								
Hospitals								
Hotels								
In-home day care	P	P	P	P	P	P		
Landfills (private)								
Laundry and dry cleaning pick-up establishments								
Laundry and dry cleaning establishments (work done on site)								
Light automotive repair establishments								
Light manufacturing establishments								
Linen and diaper services								
Livestock, non-domestic and wild animals, and poultry								
Livestock sales pavilions								
Machine shops								
Mausoleums	SE		SE	SE	SE	SE		
Medical and dental laboratories, provided that no chemicals are manufactured on site								
Mining operations								
Motels								
Motorcycle, ATV, and three-wheel vehicle sales and service facilities								
Multi-family dwelling units	P	P	P		P			
Neighborhood retail uses								
Newspaper publishing facilities								
Nightclubs								
Non-automotive repair service establishments								
Non-profit (seasonal use) fishing lakes		P	P	P	P			
Nursery schools and child day care centers								
Offices not elsewhere classified								
Office service and supply establishments								
Other consumer goods and services								
Other facilities for disposal of the deceased			SE	SE	SE	SE		
Other service establishments								
Outdoor commercial racing (motorcycle, automobile, truck, tractor, and motorized vehicles)								

TYPE OF USE	PUD	RA-6	RM-8	FST	RM-12	RD	MHP	RSL
Outdoor golf driving ranges								
Overnight travel trailer parks								
Pain Clinic and pain management clinic								
Parking for vehicles		SLUP	SLUP	SLUP	SLUP			
Pawn shops								
Petroleum or bulk storage stations								
Photography studios								
Plumbing and/or heating equipment dealers								
Poultry hatcheries								
Printing, publishing, and lithography establishments								
Private community centers		SE	SE	SE	SE	SE		
Private landfill/ composting centers/ recycling centers								
Private parks	SLUP	SLUP	SLUP	SLUP	SLUP	SLUP		
Private schools of general and special education	SLUP	SLUP	SLUP	SLUP	SLUP	SLUP		
Pro shops (accessory to driving ranges/golf courses)								
Professional offices								
Radio and television stations								
Radio, television, and other communication towers and antennae	P	P	P	P	P	P		
Rail stations								
Railroad car classification yards								
Railroad stations for freight								
Recreation grounds other than tennis courts and golf courses								
Research and development centers								
Research testing laboratories								
Rest/personal care/convalescent homes								
Reupholstery and furniture repair establishments								
Rooming and boarding houses								
Sawmills								
Sawmills (temporary)								
Self-service laundry facilities								

TYPE OF USE	PUD	RA-6	RM-8	FST	RM-12	RD	MHP	RSL
Self-service storage facilities								
Shelters (homeless)								
Signs and outdoor advertising facilities								
Single-family dwelling units (attached)	P	P	P	P	P	P		P
Single-family dwelling units (detached)	P	P	P	P	P	P		P
Studios and supplies								
Tattoo Parlor								
Taxi stands and dispatching agencies								
Telephone business offices								
Temporary uses	P	P	P	P	P	P		
Theaters								
Tire disposal storage (used or discarded)								
Tire retreading and recapping facilities								
Townhouse dwelling units (attached)	P			P				
Trailer salesrooms and sales lots								
Transportation equipment storage and maintenance facilities								
Truck terminals								
Tutoring or learning centers								
Two-family dwelling units	P					P		
Utility facilities (private)								
Vending machine sales, service, rental, or repair establishments								
Vocational schools (commercial)								
Warehouse and storage facilities								
Wholesale sales offices								
Wholesale trade and distribution facilities								
Wholesale trade offices in conjunction with office showrooms								
Zoos								

TYPE OF USE	OI	OS	NS	PSC	CBD	GC	LI	HI
Accessory retail sales and services	P						P	
Adult entertainment establishments						SLUP/ SE		
Agricultural produce stands								
Ambulance services							P	P
Ambulance services, if accessory to hospitals or funeral homes	P		P	P		P		P
Amphitheaters						P		
Amusement centers						SE	SE	SE
Ancillary retail sales								
Animal hospitals	P		P	P	P	P	P	P
Appliance repair (major)							P	
Arcades				P		P		
Asphalt plants								SLUP/ SE
Assembly halls					P	P	P	P
Athletic and health clubs	P	P	P	P	P	P		
Automobile, truck, and trailer lease and rental facilities (accessory use)						P	P	P
Automobile, truck, and trailer lease and rental facilities (principal use)						P	P	P
Automobile and truck sales and service facilities						SE	SE	SE
Automotive paint and body repair shops						P	P	P
Automotive parking lots or garages	P	P	P	P	P	P	P	P
Automotive repair and maintenance facilities							P	P
Automotive salvage and wrecking yards								SLUP/ SE
Automobile storage yards and wrecker service							SLUP/ SE	SLUP/ SE
Automotive upholstery shops						P	P	P
Aviation airports (private)							P	P
Banks/financial institutions with drive-in establishments and/or automated transfer machines	P		P	P	P	P		

TYPE OF USE	OI	OS	NS	PSC	CBD	GC	LI	HI
Billiards and pool halls			P	P		P		
Bio-medical waste transfer and disposal facilities								SLUP/ SE
Boat sales and service establishments						P	P	P
Breeding and boarding kennels							P	P
Building materials stores				P		P	P	P
Bus stations		P	P	P		P	P	P
Bus stations for freight							P	P
Car washes			P	P		P	P	P
Cemeteries	SE	SE	SE	SE		SE	SE	SE
Chemical plants or storage facilities								SLUP/ SE
Chipping, grinding or reduction of materials								SLUP
Churches, chapels, temples, synagogues, and other places of worship	SLUP/ SE	SLUP/ SE	SLUP/ SE	SLUP/ SE		SLUP/ SE	SLUP/ SE	SLUP/ SE
Clinics	P	P	P	P	P	P	P	P
Clubs or lodges (non-commercial)	P	P	P	P	P	P	P	P
Coliseums, stadiums, and convention centers (privately owned)						SE		SLUP/ SE
Colleges and universities (private), including but not limited to research and training facilities	P	P	P	P		P	P	P
Commercial greenhouses and plant nurseries			P	P	P	P	P	P
Commercial indoor recreation uses				P		P		
Commercial outdoor recreation uses				P		P		
Commercial recreation restaurant			P			P		
Community fairs	P	P	P	P	P	P	P	P
Community retail uses				P	P	P		
Composting facilities								SLUP
Concrete plants								SLUP/ SE
Condominiums								
Contractors (general, heavy, special)							P	P
Convenience food stores with self-service fuel sales				P		P		
Corporate or administrative offices for any permitted uses		P				P	P	P
Crematories, human or animal						SE	SE	SE
Cultural facilities				P	P	P		
Customary home occupations								

TYPE OF USE	OI	OS	NS	PSC	CBD	GC	LI	HI
Dairies							P	P
Designated recycling collection locations	P	P	P	P		P	P	P
Drive-in theaters						SE	SE	SE
Dry cleaning plants							P	P
Eating and drinking establishments (including drive-in fast food restaurants)			P	P	P	P		
Electrical supply stores							P	P
Emissions/inspection stations (No temporary buildings/tents to be utilized after June 30, 1998)			P	P		P	P	P
Executive golf courses	P	P	P	P		P	P	P
Extended stay motel and hotel						SLUP/SE		
Exterminating facilities (insect and/or rodent)				P	P	P		
Farm and garden supply stores			P	P		P	P	
Farm equipment stores/repair establishments						P	P	P
Farmers markets (fully enclosed)						P	P	
Field crops								
Film developing and printing facilities				P	P	P		
Flea markets						SE		
Fraternity and sorority houses/residence halls	P		P	P		P		
Freight terminals							SLUP	SLUP
Fruit trees, nuts, vegetables								
Fuel and ice dealers							P	P
Full service gasoline stations				P	P	P	P	P
Funeral homes	P		P	P	P	P	P	
Golf courses (Par 3)	P	P	P	P		P	P	P
Golf courses (18-hole regulation; public and private)	P	P	P	P		P	P	P
Group homes	SLUP	SLUP	SLUP	SLUP		SLUP	SLUP	SLUP
Halfway houses	SLUP	SLUP	SLUP	SLUP		SLUP	SLUP	SLUP
Ham radio (amateur)		SE	SE	SE		SE	SE	SE
Hazardous waste sites								SLUP/ SE
Heavy automotive repair establishments							P	P
Heavy manufacturing establishments								SLUP/ SE
Heavy repair service and trade shops								P
Helicopter landing areas		P	P	P		P	P	P

TYPE OF USE	OI	OS	NS	PSC	CBD	GC	LI	HI
High-rise apartments								
Hospitals	P		P	P		P		
Hotels			SLUP	SLUP		SLUP		
In-home day care	P	P	P	P		P	P	P
Landfills (private)								SLUP/ SE
Laundry and dry cleaning pick-up establishments			P	P	P	P	P	P
Laundry and dry cleaning establishments (work done on site)								P
Light automotive repair establishments				P		P	P	P
Light manufacturing establishments							P	P
Linen and diaper services							P	P
Livestock, non-domestic and wild animals, and poultry							P	P
Livestock sales pavilions							P	
Machine shops								P
Mausoleums	SE	SE	SE	SE		SE	SE	SE
Medical and dental laboratories, provided that no chemicals are manufactured on site	P	P	P	P	P	P	P	P
Mining operations								SE
Motels			SLUP	SLUP		SLUP		
Motorcycle, ATV, and three-wheel vehicle sales and service facilities						P	P	
Multi-family dwelling units								
Neighborhood retail uses			P	P		P		
Newspaper publishing facilities							P	P
Nightclubs						P		
Non-automotive repair service establishments			P	P	P	P	P	P
Non-profit (seasonal use) fishing lakes	P	P	P	P				
Nursery schools and child day care centers	P		P	P	P	P		
Offices not elsewhere classified	P		P	P	P	P		
Office service and supply establishments		P	P	P	P	P	P	P
Other consumer goods and services				P	P	P		
Other facilities for disposal of the deceased	SE	SE	SE	SE		SE	SE	SE
Other service establishments				P	P	P	P	
Outdoor commercial racing (motorcycle, automobile, truck, tractor, and motorized vehicles)								SLUP/ SE

TYPE OF USE	OI	OS	NS	PSC	CBD	GC	LI	HI
Outdoor golf driving ranges		P				P	P	P
Overnight travel trailer parks								
Pain Clinic and pain management clinic	SLUP					SLUP		
Parking for vehicles	P	P	P	P		P	P	P
Pawn shops						SLUP/SE		
Petroleum or bulk storage stations								SLUP/ SE
Photography studios		P	P	P	P	P		
Plumbing and/or heating equipment dealers							P	P
Poultry hatcheries							P	
Printing, publishing, and lithography establishments		P	P	P	P	P	P	P
Private community centers	SE	SE	SE	SE		SE	SE	SE
Private landfill/ composting centers/ recycling centers								SLUP/ SE
Private parks	P	P	P	P	P	P		P
Private schools of general and special education	SE	SE	SE	SE		SE	SE	SE
Pro shops (accessory to driving ranges/golf courses)		P	P	P		P	P	P
Professional offices	P		P	P	P	P		
Radio and television stations	P	P	P	P		P	P	P
Radio, television, and other communication towers and antennae	P	P	P	P		P	P	P
Rail stations							SLUP	SLUP
Railroad car classification yards							SLUP	SLUP
Railroad stations for freight							SLUP	SLUP
Recreation grounds other than tennis courts and golf courses		P	P	P	P	P	P	P
Research and development centers							P	P
Research testing laboratories							P	P
Rest/personal care/convalescent homes	P	P	P	P		P		
Reupholstery and furniture repair establishments				P		P	P	P
Rooming and boarding houses	SLUP	SLUP	SLUP	SLUP		SLUP		
Sawmills								SLUP
Sawmills (temporary)							SE	SE
Self-service laundry facilities				P	P	P		
Self-service storage facilities				P			P	P

TYPE OF USE	OI	OS	NS	PSC	CBD	GC	LI	HI
Shelters (homeless)						P	P	P
Signs and outdoor advertising facilities							P	P
Single-family dwelling units (attached)								
Single-family dwelling units (detached)								
Studios and supplies		P		P	P	P		
Tattoo Parlor						SLUP		
Taxi stands and dispatching agencies						P	P	P
Telephone business offices							P	
Temporary uses	P	P	P	P	P	P	P	P
Theaters			P	P	P	P		
Tire disposal storage (used or discarded)								SLUP
Tire retreading and recapping facilities								SLUP
Townhouse dwelling units (attached)								
Trailer salesrooms and sales lots							P	P
Transportation equipment storage and maintenance facilities							P	P
Truck terminals							SLUP	SLUP
Tutoring or learning centers	P		P	P	P	P		
Two-family dwelling units								
Utility facilities (private)							P	P
Vending machine sales, service, rental, or repair establishments						P	P	
Vocational schools (commercial)		P					P	P
Warehouse and storage facilities							P	P
Wholesale sales offices							P	P
Wholesale trade and distribution facilities		P					P	P
Wholesale trade offices in conjunction with office showrooms		P					P	P
Zoos						P		

Notes:
P = Permitted Use
SE = Special Exception Use
SLUP = Special Land Use Permit

Sec. 22-123. R-80 single-family residential district.

The regulations for the R-80 single-family residential district (80,000-square-foot lot size) are as follows:

(1) ***Purpose and intent.*** The R-80 district is established to provide locations for single-family residential uses or residentially compatible institutional and recreational uses which are within or on the edge of properties delineated for any residential category as defined and shown on the Austell Comprehensive Plan: A Policy Guide, adopted July 2, 2007. When residentially compatible institutional and recreational uses are developed within the R-80 district, they should be designed and built to ensure intensity and density compatibility with adjacent single-family detached dwellings and otherwise to implement the stated purpose and intent of this chapter.

(2) ***Definitions.*** The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

a. ***Group home*** A dwelling unit, operated by an affiliate of a National, Regional, State or County Organization with a philanthropic mission, shared by four or fewer persons, excluding resident staff, who live together as a single housekeeping unit and in a long term, family-like environment in which staff persons provide care, education and participation in community activities, under a structured and scheduled plan that must be provided to the City, for the residents with the primary goal of enabling the residents to live as independently as possible in order to reach their maximum potential under the direction and guidance of a designated managing caregiver, designated as such by the affiliate organization, who must be a resident of the group home and available by telephone on a 24 hour basis in case of complaints. A copy of the home rules shall be provided to the City as well as (if applicable) evidence of active enforcement under the Georgia Association of Recovery Residence standards. The schedule of activities may be verified via periodic inspection by Community Affairs staff. The term "group home" shall not include a halfway house, a treatment center for alcoholism or drug abuse, a work release facility for convicts or ex-convicts, a home for the detention and/or rehabilitation of juveniles adjudged delinquent or unruly and placed in the custody of the state, or other housing facilities serving as an alternative to incarceration. The term "group home" shall also not allow the use of the dwelling as an apartment or duplex. A group home shall not allow use of the dwelling as a home for individuals on parole, probation, or convicted and released from incarceration, for any crimes including child molestation, aggravated child molestation, or child sexual abuse, as defined in O.C.G.A. § 16-6-4 or individuals required to register as sex offenders in pursuant to O.C.G.A. § 42-1-12. A group home may include a home for the handicapped. As used in this subsection, the term "handicapped" shall mean:

(1) Having a physical or mental impairment that substantially limits one or more of such person's major life activities.

(2) Having a record of having such an impairment; or

(3) Being regarded as having such an impairment.

However, the term "handicapped" shall not include persons who currently use illegal controlled substances, persons who have been convicted of the illegal manufacture or distribution or controlled substances, sex offenders, and juvenile offenders or persons with or without disabilities who present a direct threat to the persons or property of others.

b. ***Livestock, nondomestic and wild animals, and poultry*** means animals, nondomestic and wild animals, and species of the avian family which are or may be raised for the purpose of providing food or transportation, or being resold or bred, excluding only dogs, cats, rabbits, fish, pet mice, hamsters, gerbils, parrots and parakeets.

1. Such animals shall only be permitted on a lot containing not less than two acres.
2. All buildings used for animals shall be set back not less than 200 feet from any property line.
3. All animals shall be maintained at least 25 feet from any residential property line.
4. Except in the RR district, there shall be not less than 5,000 square feet of fenced lot area not covered by the principal structure for each animal, unless the property is a bona fide farm.
5. These rules are effective with respect to new construction, not existing uses.

c. ***Riding stable*** means a building for the shelter and feeding of domestic animals, especially horses. For the purpose of this section, nonprofit does not prohibit charging for boarding, feed/hay, etc.; grooming, etc.; for the purpose of assisting in maintaining the property.

1. Such stable shall be established on a lot having an area of not less than ten acres.
2. Any structure shall be located at least 200 feet from any property line.
3. All animals shall be maintained at least 100 feet from any property line.

(3) ***Permitted uses.*** Anything not permitted or allowed by special exception is prohibited. Permitted uses are as follows:

Customary home occupations
Executive golf courses
Golf courses, 18-hole regulation, public and private
Golf courses, par 3
In-home day care
Land Mobile, Communication, Microwave, and Radio Transmission Antennae Towers
Livestock, nondomestic and wild animals, and poultry
Nonprofit (seasonal use) fishing lakes
Private parks (SLUP required)
Radio, television and other communication towers and antennas subject to section 22- 173
Riding stables
Single-family dwelling units (detached).
Temporary uses (as defined in this Ordinance)

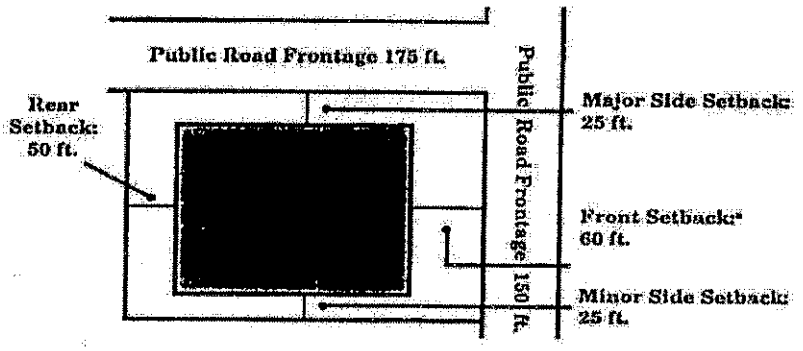
(4) ***Lot size and setback requirements.***

a. Minimum lot size: 80,000 square feet.
b. Minimum lot width at front setback line: 75 feet; cul-de-sac, 50 feet.
c. Minimum public road frontage: 75 feet; cul-de-sac, 50 feet.
d. Minimum building setbacks: As shown and applied in the following diagram:

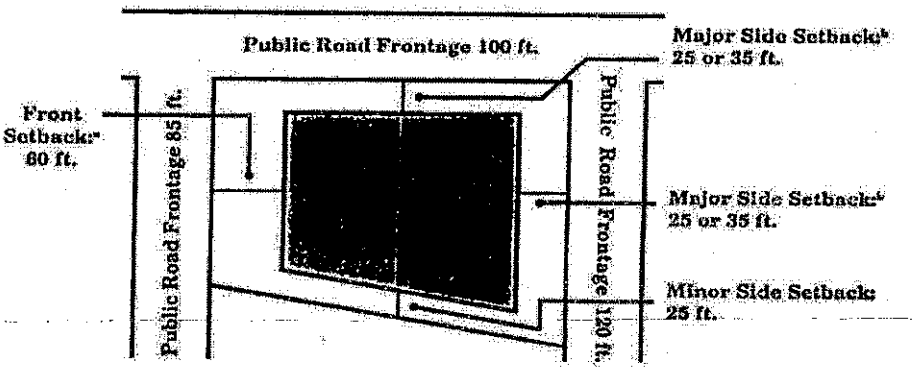
MINIMUM BUILDING SETBACK REQUIREMENTS FOR R-80 DISTRICT

Note: All setbacks shall be measured from future right-of-way.

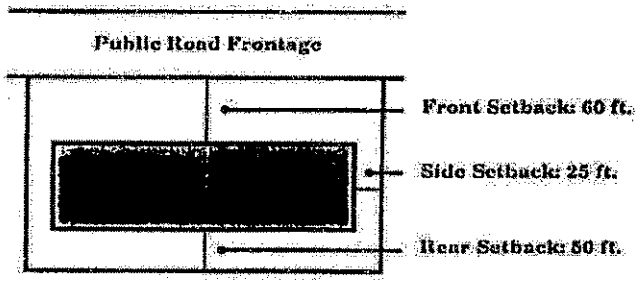
R-80



Example for Property with two (2) Public Road Frontages



Example for Property with three (3) Public Road Frontages



Example for Property with one (1) Public Road Frontage

Notes:

a Property with shorter amount of road frontage will be the front setback for determining other setbacks (major side, side, rear).

b If structure fronts a major side setback, major side setback shall be 35 feet.

(5) ***Landscape buffer and screening requirements.*** Landscape buffer and screening requirements are not applicable in this district.

(6) ***Floodplain and wetlands preservation requirements.*** Subject to the conditions set forth in the City of Austell Floodplain Management and Prevention Ordinance.

(7) ***Building and structure requirements.*** Maximum building height is 35 feet.

(8) ***Parking requirements.*** See section 22-172 for paved parking specifications.

(9) ***Lighting requirements.*** Any project permitted within the R-80 district which proposes a lighted facility must have approval from the Building Official or his/her designee.

(10) ***Special exception uses.*** See section 22-171 for requirements for special exception uses. Special exception uses for the R-80 district are the uses listed as follows:
a. Any other facility for the disposal of the dead.
b. Cemeteries.
c. Churches, chapels, temples, synagogues and other places of worship.
d. Mausoleums
e. Club or lodge, private.
f. Private schools of general and special education.

(11) ***Use limitations.***

a. No sales of goods or products shall be permitted except as accessory to a customary home occupation, land use permit, special land use permit or special exception use.

b. No adult entertainment uses are permitted.

c. All uses are subject to the Subdivision Regulations of Austell, Georgia as may be amended from time to time.

d. No outside storage is permitted, excluding firewood and lawn furnishings.

e. Maximum impervious surface shall not exceed 25 percent.
Required buffers may be included within required setbacks; however, in such case that the required buffer is greater than the required setback, the required buffer shall be adhered to. Additionally, necessary private utilities or access drives may be allowed through, over or across a landscaped buffer. Any such uses which are proposed through, over or across a designated undisturbed buffer must be approved pursuant to an original site plan or site plan modification.

f. No tractor trailers, or heavy equipment shall be allowed to be parked in a residential zoned neighborhood.

g. R.V.'s, trailers, boats, and the like shall not be allowed to be parked beyond the front building line or allowed in the front yards and must be on a hardened surface.

(12) ***Accessory buildings, structures, uses and decks.***

a. Any accessory building or structure in excess of 1,000 square feet of gross space shall be located to the rear of the primary structure and at least 100 feet from any property line. Any accessory building or structure less than 1,000 square feet and greater than 144 square feet must be located to the rear of the primary structure within the building setbacks. Any accessory building or structure which exceeds 1,000 square feet of gross space must have the approval of the Building Official or his/her designee as to the location, architectural design and size prior to commencing construction. The Building Official or his/her designee shall consider the following criteria for determining the appropriateness of the architectural design and size of the accessory building or structure: compatibility with the surrounding neighborhood, style of exterior (the exterior is to be compatible in style with the primary structure), use of the proposed accessory structure, impact on adjacent properties, and requirements as deemed appropriate by plan review as set forth in this subsection. All accessory buildings, structures and uses in excess of 1,000 square feet shall be required to submit for plan review through the community affairs department or receive approval from the director of the community affairs or his/her designee.

b. Accessory buildings, structures, uses or decks shall be subject to the following conditions unless otherwise defined as in subsection (12)a. of this Code section:

1. Maximum height is two stories or 35 feet, when located within building setbacks or at least 100 foot from a property line, otherwise maximum height is one story.
2. Accessory uses shall include garbage pads, heating and air conditioning units, jacuzzis, tennis courts, swimming pools (private), playhouses and playgrounds.
3. All accessory uses shall be located to the rear of the principal building, except for heating and air conditioning units or garbage pads, which may be located on the side or rear.
4. The rear of the principal building shall be where the main portion of the building ends without consideration of the wings.
5. Architectural style and design shall be approved by the Building Official of his designee.
6. Such structures or buildings shall be located on the same lot as and to the rear of the principal building to which they are accessory. Decks may be located to the rear or side of the principal building subject to the limitations in this subsection.
7. No accessory building, structure, use or deck shall be built until construction of the principal building has commenced.
8. On a corner lot, no accessory building, structure, use or deck shall be located closer to the side street right-of-way line than the principal building.
9. No garage or accessory building, structure, use or deck less than 144 gross square feet, shall be located closer than five feet to a side or rear lot line or within any required buffers, whichever is greater, regardless if the garage, accessory building, structure, use or deck is attached to the primary structure by a breezeway. If the garage, accessory building, structure, use or deck is attached to the primary structure by a breezeway it shall be located up to a maximum of 25 feet from the primary structure to which it is attached.

c. Antennas and satellite dishes shall meet the requirements set forth in section 22-174.

d. Incidental storage is permitted, provided that the material stored is incidental to the permitted use, as determined by the Building Official or his/her designee, and stored completely within a portion of the enclosed principal structure permitted within the district, or within a permitted accessory structure.

e. Neighborhood recreation centers, amenities and swimming pools are subject to the following:

1. Site plans must be approved by the Building Official or his/her designee to ensure compliance with all applicable laws and provisions of this chapter. The facility should be designed to include a detailed landscape plan that provides adequate screening of the facility which creates a visual and sound buffer for adjacent properties. The landscape plan shall be drawn to scale and shall include plant identification by common name. The facility shall be designed to accommodate no more than those residing within two adjoining residential developments except in those cases where a variance is obtained as in other cases.

2. Buildings and structures established in connection with such use shall be set back not less than 100 feet from any property line.

i. Upon written consent of all owners of property within 100 feet of the building or structure, the setback may be reduced to 50 feet from any exterior property line of the subdivision within which the use is located. Additionally, a detailed landscape plan must be submitted to and approved by the Building Official or his/her designee.

ii. The setback may be reduced to 20 feet from an interior property line of the property on which the use is located if a ten-foot landscaped buffer is provided along the property line and a six-foot solid wood or masonry fence is erected and maintained along the line so as to provide a visual and noise screen for adjacent property; provided, however, the setback after reduction shall not be less than 100 feet from an exterior property line unless also reduced in accordance with subsection (12)e.2.i of this section. Such landscaped buffer shall be shown on the landscaping plan specified in subsection (12)e.1 of this section and must be approved by the Building Official or his/her designee.

iii. When a property line is on a natural waterway, a property line setback may be waived provided a written waiver is obtained from the Building Official or his/her designee.

3. Swimming pools must comply with all applicable ordinances and must have necessary approvals from the health department and the City of Austell.

4. Outdoor activity shall cease by 11:00 p.m.

5. Lighting shall be established in such a way that values or quiet use and enjoyment of adjacent properties are not adversely affected, and that roadways and safe use thereof are not adversely affected. No direct light shall be cast upon adjacent properties or roadways. If lighting is to be established, the use of environmental or cutoff type fixtures only is permissible. If lighting is to be established in a recreation area adjacent to an existing or proposed Cobb County or Austell public road, a lighting plan must be submitted and approved by the Mayor and Council to ensure

that no light is cast upon the roadway and that no adverse impact will be created as a result of the lighting.

6. No residence or structures shall be built upon any adjacent lot within the development within which the facility is located until construction of the recreation area has commenced to the extent that buyers of adjacent property will be aware of where the recreation area will be located.

7. Parking requirements are as follows:

i. A minimum of twenty (20) spaces shall be provided for amenities which include a swim facility or swim/tennis facility with up to four (4) courts. Additional spaces at the minimum of four (4) spaces per court shall be provided for each court over four (4) in number. A minimum of ten (10) spaces for every two (2) courts shall be provided for amenities which include tennis courts only.

ii. In addition to the requirement 12 d.7. i. above, a minimum of five (5) spaces for each fifty (50) residents, or pro-rated share thereof, over one hundred (100) shall be provided.

iii. Parking spaces shall be paved and striped according to section 22-172, as it now exists or may hereafter be amended. No parking shall be allowed within a front yard setback.

8. No park, playground, tennis court, basketball court, or as the like shall be allowed to be constructed unless the following criteria are met, except those recreational improvements included in a site plan approved by the Mayor and Council:

i. The adjacent property owners shall be in favor of the proposed recreational improvement.

ii. Sixty percent of the subdivision, if located in a subdivision shall be in favor of the proposed park.

iii. Approval has been received by Mayor and Council.

Sec. 22-124. RR rural residential district.

The regulations for the RR rural residential district are as follows:

(1) ***Purpose and intent.*** The RR district is established to provide locations for large useable areas for limited residential, agricultural, park and open space needs. This district also serves to correlate growth with utility, service and transportation needs until urbanization is warranted. RR uses or residentially compatible institutional and recreational uses should be located within or on the edge of properties delineated for any residential category as defined and shown on the Austell Comprehensive Plan: A Policy Guide, adopted July 2, 2007. When residentially compatible institutional and recreational uses are developed within the RR district, they should be designed and built to ensure intensity and density compatibility with adjacent single-family detached dwellings and otherwise to implement the stated purpose and intent of this chapter.

(2) ***Definitions.*** The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

a. ***Agricultural produce stand*** means a structure not greater than 1,000 square feet for the purpose of seasonal sales of products grown or produced on the premises on which it is located.

b. ***Group home*** A dwelling unit, operated by an affiliate of a National, Regional, State or County Organization with a philanthropic mission, shared by four or fewer persons, excluding resident staff, who live together as a single housekeeping unit and in a long term, family-like environment in which staff persons provide care, education and participation in community activities, under a structured and scheduled plan that must be provided to the City, for the residents with the primary goal of enabling the residents to live as independently as possible in order to reach their maximum potential under the direction and guidance of a designated managing caregiver, designated as such by the affiliate organization, who must be a resident of the group home and available by telephone on a 24 hour basis in case of complaints. A copy of the home rules shall be provided to the City as well as (if applicable) evidence of active enforcement under the Georgia Association of Recovery Residence standards. The schedule of activities may be verified via periodic inspection by Community Affairs staff. The term "group home" shall not include a halfway house, a treatment center for alcoholism or drug abuse, a work release facility for convicts or ex-convicts, a home for the detention and/or rehabilitation of juveniles adjudged delinquent or unruly and placed in the custody of the state, or other housing facilities serving as an alternative to incarceration. The term "group home" shall also not allow the use of the dwelling as an apartment or duplex. A group home shall not allow use of the dwelling as a home for individuals on parole, probation, or convicted and released from incarceration, for any crimes including child molestation, aggravated child molestation, or child sexual abuse, as defined in O.C.G.A. § 16-6-4 or individuals required to register as sex offenders in pursuant to O.C.G.A. § 42-1-12. A group home may include a home for the handicapped. As used in this subsection, the term "handicapped" shall mean:

(1) Having a physical or mental impairment that substantially limits one or more of such person's major life activities.

(2) Having a record of having such an impairment; or

(3) Being regarded as having such an impairment.

However, the term "handicapped" shall not include persons who currently use illegal controlled substances, persons who have been convicted of the illegal manufacture or distribution or controlled substances, sex offenders, and juvenile offenders or persons with or without disabilities who present a direct threat to the persons or property of others.

c. ***Livestock, nondomestic and wild animals, and poultry*** means animals, nondomestic and wild animals, and species of the avian family which are or may be raised for the purpose of providing food or transportation, or being resold or bred, excluding only dogs, cats, rabbits, fish, pet mice, hamsters, gerbils, parrots and parakeets.

1. Such animals shall only be permitted on a lot containing not less than two acres.
2. All buildings used for animals shall be set back not less than 200 feet from any property line.
3. All animals shall be maintained at least 25 feet from any residential property line.
4. Except in the RR district, there shall be not less than 5,000 square feet of fenced lot area not covered by the principal structure for each animal, unless the property is a bona fide farm.
5. These rules are effective with respect to new construction, not existing uses.
6. In the case of nondomestic or wild animals, all state and federal requirements must be met and a special land use permit is required.

d. ***Riding stable*** means a building for the shelter and feeding of domestic animals, especially horses.

1. Such stable shall be established on a lot having an area of not less than ten acres.
2. Any structure shall be located at least 200 feet from any property line.
3. All animals shall be maintained at least 100 feet from any property line.

(3) ***Permitted uses.*** Anything not permitted or allowed by special exception is prohibited. Permitted uses are as follows:

Agricultural produce stands with a minimum of four off-street parking spaces.
Commercial greenhouses and plant nurseries, so long as set back at least 100 feet from any residential property line.
Customary home occupations.
Dairies, so long as buildings used for livestock shall be set back not less than 200 feet from any property line and all animals are maintained at least 100 feet from any property line.
Executive golf courses.
Farm and garden supply stores.
Field crops.
Fruit trees, nuts and vegetables.
Golf courses, 18-hole regulation, public and private.
Golf courses, par 3
In-home day care.
Livestock, nondomestic and wild animals, and poultry.
Livestock sales pavilions.

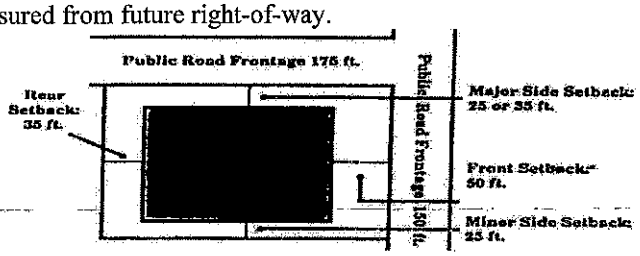
Nonprofit (seasonal use) fishing lakes.
Outdoor golf driving ranges.
Poultry hatcheries. All structures shall be located and activities conducted at least 100 feet from any residentially zoned property.
Private parks SLUP required.
Radio, television and other communication towers and antennas, subject to section 22-173.
Riding Stables.
Single-family dwelling units (detached).
Temporary uses (as defined in this Ordinance).

(4) ***Lot size and setback requirements***. Lot size and setback requirements are as follows:

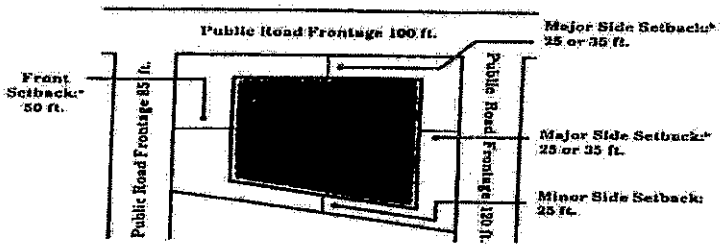
a. Minimum lot size: 40,000 square feet.
b. Minimum lot width at front setback line: 100 feet.
c. Minimum public road frontage: 75 feet.
d. Minimum building setbacks: As shown on and applied in the following diagram:

MINIMUM BUILDING SETBACK REQUIREMENTS FOR RR DISTRICT

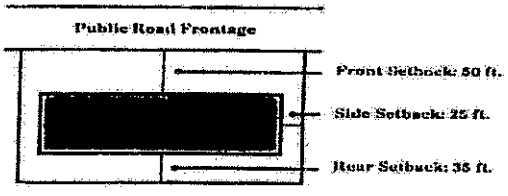
Note: All setbacks shall be measured from future right-of-way.



Example for Property with two (2) Public Road Frontages



Example for Property with three (3) Public Road Frontages



Example for Property with one (1) Public Road Frontage

Notes:

a Property with shorter amount of road frontage will be the front setback for determining other setbacks (major side, side, rear).

b If structure fronts a major side setback, major side setback shall be 35 feet.

(5) ***Landscape buffer and screening requirements.*** Landscape buffer and screening requirements are not applicable in this district.

(6) ***Floodplain and wetlands preservation requirements.*** Subject to the conditions set forth in the City of Austell Floodplain Management and Prevention Ordinance.

(7) ***Building and structure requirements.*** Maximum building height is 35 feet.

(8) ***Parking requirements.*** See section 22-172 for paved parking specifications.

(9) ***Lighting requirements.*** Any project permitted within the RR district which proposes any outdoor lighting must have approval from the Building Official or his/her designee.

(10) ***Special exception uses.*** See section 22-171 for requirements for special exception uses. Special exception uses for the RR district are the uses listed as follows:
a. Any other facility for the disposal of the dead.
b. Cemeteries.
c. Churches, chapels, temples, synagogues and other places of worship.
d. Mausoleums
e. Club or lodge, private.
f. Private schools of general and special education.

(11) ***Use limitations.***

a. No outside storage is permitted, excluding firewood and lawn furnishings.

b. Maximum impervious surface shall not exceed 25 percent.
Required buffers may be included within required setbacks; however, in such case that the required buffer is greater than the required setback, the required buffer shall be adhered to. Additionally, necessary private utilities and access drives may be allowed through, over or across a landscaped buffer. Any such uses which are proposed through, over or across a designated undisturbed buffer must be approved pursuant to an original site plan or site plan modification.

(12) ***Accessory buildings, structures, uses and decks.***

a. Any accessory building or structure in excess of 1,000 square feet of gross space shall be located to the rear of the primary structure and at least 100 feet from any property line. Any accessory building or structure less than 1,000 square feet and greater than 144 square feet must be located to the rear of the primary structure within the building setbacks. Any accessory building or structure which exceeds 1,000 square feet of gross space must have the approval of the Building Official or his/her designee as to the location, architectural design and size prior to commencing construction. The Building Official or his/her designee shall consider the following criteria for determining the appropriateness of the architectural design and size of the accessory building or structure: compatibility with the surrounding neighborhood, style of exterior (the exterior is to be compatible in style with the primary structure), use of the proposed accessory structure, impact on adjacent properties, and requirements as deemed appropriate by plan review

as set forth in this subsection. All accessory buildings, structures and uses in excess of 1,000 gross square feet shall be required to submit for plan review through the community affairs department or receive approval from the director of the community affairs or his/her designee.

b. Accessory buildings, structures, uses and decks shall be subject to the following conditions unless otherwise defined as in subsection (12)a. of this Code section:

1. Maximum height is two stories or 35 feet, when located within building setbacks or at least 100 foot from a property line, otherwise maximum height is one story.

2. Accessory uses shall include garbage pads, heating and air conditioning units, jacuzzis, tennis courts, swimming pools (private), playhouses and playgrounds.

3. All accessory uses shall be located to the rear of the principal building, except for heating and air conditioning units or garbage pads, which may be located on the side or rear.

4. The rear of the principal building shall be where the main portion of the building ends without consideration of wings.

5. Architectural style and design are to be approved by the Building Official or his/her designee.

6. Such structures or buildings shall be located on the same lot as and to the rear of the principal building to which they are accessory. Decks may be located to the rear or side of the principal building subject to the limitations in this subsection.

7. No accessory building, structure, use or deck shall be constructed upon a lot until construction of the principal building has commenced.

8. On a corner lot, no accessory building, structure, use or deck shall be located closer to the side street right-of-way line than the principal building.

9. No garage or accessory building, structure, use or deck less than 144 gross square feet, shall be located closer than five feet to a side or rear lot line or within any required buffers, whichever is greater, regardless if the garage, accessory building, structure, use or deck is attached to the primary structure by a breezeway. If the garage, accessory building, structure, use or deck is attached to the primary structure by a breezeway it shall be located up to a maximum of 25 feet from the primary structure to which it is attached.

c. Antennas and satellite dishes shall meet the requirements set forth in section 22-174.

d. Incidental storage is permitted, provided that the material stored is incidental to the permitted use, as determined by the Building Official or his/her designee, and stored completely within a portion of the enclosed principal structure permitted within the district, or within permitted accessory structure.