

**CITY OF AUSTELL
COBB COUNTY, GEORGIA**

WATER SUPPLY WATERSHED PROTECTION ORDINANCE

AN ORDINANCE TO AMEND THE SWEETWATER CREEK WATER SUPPLY WATERSHED REGULATIONS; TO PROHIBIT CERTAIN USES; TO EXEMPT CERTAIN USES, TO PROVIDE FOR BUFFERS AND SETBACKS RELATIVE TO PERENNIAL STREAM CORRIDORS; TO LIMIT IMPERVIOUS SURFACES; TO PROVIDE DEFINITIONS; AND TO PROVIDE FOR ENFORCEMENT AND PENALTIES.

WHEREAS: The Constitution of the State of Georgia provides in Article IX, Section II, Paragraph I, that: “The Governing Authority of each City shall have legislative power to adopt clearly reasonable ordinances, resolutions or regulations relating to its property, etc.”; and

WHEREAS: Rules of the Georgia Department of Natural Resources (DNR) and the Georgia Department of Community Affairs (DCA) require that local comprehensive plans indicate how local water supply watershed are to be protected according to standards establishing natural stream buffers, impervious surface setbacks, and certain land use limitations; and

WHEREAS: The Georgia Department of Community Affairs requires that local governments implement their water supply watershed protection standards in the form of land use regulations and DCA has approved the Austell Comprehensive Land Use Plan which addresses the Sweetwater Creek Water Supply Watershed Protection Plan;

NOW, THEREFORE, be it ordained and it is hereby ordained that the following Sweetwater Creek Water Supply Watershed Regulations be enacted into law:

The Watershed Protection District shall overlay other zoning districts so that all land lying within the Watershed Protection Districts shall also be included in the underlying district. Each parcel of land within the Watershed Protection District shall be subject to the provisions, regulations, and restrictions of both the Watershed Protection District and its underlying district. In the event of a conflict or discrepancy between the requirements of the Watershed Protection overlay and the underlying district, the more stringent shall apply.

Findings of Fact. In order to provide for the health, safety, and welfare of the public and a healthy economic climate within Sweetwater Creek Watershed, it is essential that the quality of public drinking water be assured. The ability of natural systems to filter storm water runoff can be threatened by unrestricted urban and suburban development. Land disturbing activities associated with development can increase erosion and sedimentation that threatens the storage capacity of reservoirs. In addition, stormwater runoff, particularly from impervious surfaces, can introduce toxicant, nutrients, and sediment into drinking water supplies, making water treatment more complicated, expensive in rendering water resources unusable. Industrial land uses that involve the manufacture, use, transport and storage of hazardous or toxic waste materials result in the potential risk of contamination of nearby public drinking water supplies.

Purposes. The purpose of the water supply watershed protection district regulation is to establish measures to protect the quality and quantity of the present and future water supply for the City of East Point, Georgia. Also, to minimize the transport of pollutants and sediments to the water supply, and maintain the yield of the water supply watersheds.

District Delineation. The protected water supply watershed protection districts are hereby designated, and shall consist of the land areas that drain to the public water supply intake or water supply reservoir. The boundaries of these districts are defined by the ridge lines of the respective watersheds and the boundary of a radius seven (7) miles upstream of the respective public water supply intakes. The area encompassed by the Official City Limits Boundary of the City of Austell is located within the large water supply watershed (263 square miles) for the City of East Point, Georgia. Portions of the City of Austell are located within a seven (7) mile radius upstream of the water supply intake for the City of East Point, Georgia. Therefore, the Water Supply Watershed Protection District is that portion of the City of Austell that is located within the East Point Inner Protection Zone located within a seven (7) mile radius upstream of the water supply intake for the East Point, Georgia.

SECTION ONE:

Permitted Uses. All uses allowed in the underlying zoning districts as established by the Austell Zoning Ordinance except for those listed in Prohibited Uses below, are permitted in the Water Supply Watershed Protection District, subject to the following conditions and standards:

1. Natural Buffer and Impervious Surface Requirements within the East Point Inner Protection Zone
 - A. A buffer shall be maintained for a distance of one hundred (100) feet on both sides of the stream as measured from the top of the stream bank.
 - B. No impervious surface shall be constructed within a one hundred and fifty (150) foot setback area on both sides of the stream as measured from the stream banks.
 - C. Septic tanks and septic tank drainfields are prohibited within a one hundred and fifty (150) foot setback area on both sides of the stream as measured from the stream banks.
2. Natural Buffer and Impervious Surface Requirements outside the East Point Inner Protection Zone
 - A. A natural vegetative buffer shall be maintained for a distance of fifty (50) feet on both sides of a perennial stream as measured from the top of the stream bank.
 - B. No impervious surface shall be constructed within a seventy-five (75) feet setback area on both sides of the stream as measured from the top of the stream bank.
 - C. Septic tanks and septic tank drainfields are prohibited within a seventy-five (75) foot setback area on both sides of the stream as measured from the stream banks.

SECTION TWO:

Exemptions. The following uses are exempt from the stream corridor buffer and setback requirements if they meet the stipulated conditions:

1. Utilities
 - A. Utilities shall be located as far as reasonably possible from the stream bank, and shall not impair the quality of the drinking water stream.
 - B. Utilities shall be installed and maintained without changing the integrity of the buffer and setback areas, as much as possible.
2. Forestry and Agricultural Activities
 - A. Agricultural activities involving the planting and harvesting of crops are exempted if they conform to the best management practices established by the Georgia Department of Agriculture.
 - B. Silviculture activities must conform to the best management practices established by the Georgia Forestry Commission.
3. Existing Use
 - A. Any land use within the Sweetwater Creek water supply watershed existing prior to the adoption of the original Water Supply Watershed Protection Ordinance on June 1, 1998 by the City of Austell implementing this plan is exempt. Any undeveloped lot which is part of a subdivision plat recorded prior to the adoption of these regulations by the City of Austell implementing this Ordinance, shall also be exempted from these provisions and provided such activities shall not impair the quality of the drinking water stream as authorized by Georgia Department of Natural Resources Rules for Environmental Planning Criteria, Chapter 391-3-16.

SECTION THREE:

Site Plan Requirements. Except for the exemptions listed below all forms of development within the Watershed Protection District shall be required to have a site plan submitted and approved according to this ordinance before any re-zoning requests or building permits may be approved or any land disturbing activity may take place. Each site plan submitted shall include the following:

1. A site plan drawn to scale and showing all planned improvements including width, depth, and length of all existing and proposed structures, roads, water courses, drainage ways, water, wastewater, and storm water facilities, and utility installations.

2. Location, dimensions, and area of all impervious surfaces, both existing and proposed, on the site.
3. The orientation and distance from the boundaries of the proposed site to the nearest back of an affected perennial stream or body of water.
4. Elevations of the site and adjacent lands within one-hundred (100) feet of the site at contour intervals of no greater than five (5) feet.
5. Erosion and Sedimentation Control Plan.
6. Any facility in the process of expanding shall provide location and detailed design of any spill and leak collection systems designed for the purpose of containing accidentally released hazardous or toxic waste.
7. Any non-compliance to this Ordinance shall be stated and addressed on the site plan.

SECTION FOUR:

Activity Compliance. All development activities or site work conducted after approval of the site plan shall conform with the specifications of said site plan. Significant changes to the site plan that would alter the amount and velocity of storm water runoff from the site, increase the amount of impervious surface within the development, alter the overall density of development, results in a considerable increase in the amount of excavation, fill, or removal of vegetation during construction, or otherwise result in an alteration of the overall appearance of the development as proposed, can be amended only with the approval of the Building Officials for the City of Austell. Minor changes such as realignment of streets or minor alterations to drainage structures and other infrastructure to meet unexpected conditions are exempted from this requirement.

SECTION FIVE:

Exemptions from Site Plan Requirement.

1. Repairs to a facility that is part of a previously approved and permitted development.
2. Construction of minor structures such as sheds, or additions to single-family residences.

SECTION SIX:

Prohibited Uses With The Water Supply Watershed Protection District.

1. All sanitary landfills with or without synthetic liners are leachate collection systems.
2. Any facility using hazardous materials.

Definitions.

1. BUFFER means a natural or enhanced vegetated area with no or limited minor land disturbances. Specific buffer uses may be approved by the City of Austell consistent with these criteria.
2. CORRIDOR means all land within the buffer areas and other setback areas specified in the Ordinance.
3. IMPERVIOUS SURFACE means or man-made structure or surface, which prevents the infiltration of storm water into the ground below the structure or surface. Examples are buildings, roads, driveways, parking lots, decks, swimming pools, or patios.
4. PERENNIAL STREAM means a stream, which flows through the whole years as indicated on a USGA Quad map.
5. RESERVOIR BOUNDARY means the edge of a water supply reservoir defined by its normal pool level.
6. STREAM BANK means the sloping land that contains the stream channel and the normal flows of the stream.
7. UTILITY means public or private water or sewer piping systems, water or sewer pumping stations, electric power lines, fuel pipelines, telephone lines, roads, driveways, bridges, river/lake access facilities, storm water systems and railroads or other utilities identified by a local government.
8. WATER SUPPLY RESERVOIRS means a governmental owned impoundment of water for the primary purpose of providing water to one or more governmental owned public drinking water systems.
9. WATER SUPPLY WATERSHED means the area of land upstream of a governmental owned public drinking water intake.
10. WATER SUPPLY WATERSHED PROTECTION PLAN is a land use plan prepared and adopted by local governments for the protection of the quality of drinking water obtained from the watershed.

SECTION SEVEN:

Penalties. Any person violating any provisions of this Ordinance shall be liable for a monetary penalty of \$250.00 per day, per violation, but not to exceed \$1,000.00 per day, per violation, as authorized by O.C.G.A. §36-1-20(b). Each day during which the violation or failure or refusal to comply continues shall constitute a separate violation.

SECTION EIGHT:

Severability. This Ordinance abolishes all previous resolutions or ordinances as it relates to the Water Supply Watershed Protection for the Sweetwater Creek Watershed and any conflicting portion of the Code of Ordinances of the Zoning Ordinance.

ADOPTED by the City Council of the City of Austell, this 1st day of June 1998.

Joe Jerkins, Mayor
City of Austell

Deborah Ellis, City Clerk
City of Austell

APPROVED AS TO FORM:

David P. Darden
City Attorney