

STATE OF GEORGIA
CITY OF RINCON

ORDINANCE

AN ORDINANCE BY THE MAYOR AND CITY COUNCIL FOR THE CITY OF RINCON REPEALING THE CODE OF THE CITY OF RINCON, GEORGIA AT CHAPTER 34 (ENVIRONMENT) AND CHAPTER 42 (FLOODS); TO BE REPLACED WITH CHAPTER 90 (ZONING AND GROWTH MANAGEMENT), SECTION 90-308 (NOISE) THROUGH 90-345 (OBSTRUCTION); TO PROVIDE FOR NOTICE; TO PROVIDE FOR SEVERABILITY; TO PROVIDE AN EFFECTIVE DATE; TO REPEAL ALL ORDINANCES AND PARTS OF ORDINANCES IN CONFLICT HEREWITH; AND FOR OTHER PURPOSES.

WHEREAS, the duly elected governing authority of the City of Rincon, Georgia is authorized by O.C.G.A. § 36-35-3 to adopt ordinances relating to its property, affairs and local government;

WHEREAS, the Mayor and Council have authority to amend the City's ordinances from time to time and where necessary to maintain adequate regulations, and;

NOW THEREFORE, THE MAYOR AND COUNCIL OF THE CITY OF RINCON HEREBY ORDAINS, in a regular meeting assembled and pursuant to lawful authority thereof, as follows:

Sec. 90-308– Noise

(A) Excessive noise prohibited.

- (1) No person shall make, continue or cause to be made or continued any loud unnecessary or excessive noise which unreasonably interferes with the comfort and repose of others within the jurisdiction of the city.
- (2) It shall be unlawful for any person knowingly or willfully or through his culpable negligence to make or create excessive noise within the city as heard by persons and measured in the manner hereinafter set forth.

(B) Restricted uses and activities in residential districts.

- (1) Any noise making devices, to include any noise generated from radios, personal or commercial vehicles, and any electrical or mechanical devices shall not be operated in a public place, public right-of-way, or across a real property boundary in such a manner as to be plainly audible at a distance of 300 feet or greater in any direction from the operator between the hours of 7:00 a.m. and 8:00 p.m. Between the hours of 8:01 p.m. and 6:59 a.m., such equipment shall not be operated in such a manner that it is plainly audible at a distance of 50 feet or greater in any direction.
- (2) It shall be unlawful for any person to yell, shout or produce any other vocal noise plainly audible at a distance of 300 feet in any direction across a residential real

property boundary or on a public right-of-way or public property, between the hours of 8:00 p.m. and 7:00 a.m., or any noise resulting from activities of greater than a temporary duration, so as to intentionally annoy or disturb the quiet, comfort or repose of persons in any residence, dwelling, or other type of residence.

- (3) Tools and power tools and/or landscaping and yard maintenance equipment that are audible across a real property boundary shall only be operated between the hours of 7:00 a.m. and 8:00 p.m.

(C) Restricted uses and activities in commercial districts.

- (1) Any noise making devices, to include any noise generated from radios, personal or commercial vehicles, and any electrical or mechanical devices shall not be operated in a public place, public right-of-way, or across a real property boundary in such a manner as to be plainly audible at a distance of 1,000 feet or greater in any direction from the operator between the hours of 7:00 a.m. and 10:00 p.m. Between the hours of 10:01 p.m. and 6:59 a.m., such equipment shall not be operated in such a manner that it is plainly audible at a distance of 100 feet or greater in any direction.

- (2) It shall be unlawful for any person to yell, shout or produce any other vocal noise plainly audible at a distance of 1,000 feet in any direction across a residential real property boundary or on a public right-of-way or public property, between the hours of 10:01 p.m. and 6:59 a.m., or any noise resulting from activities of greater than a temporary duration, so as to intentionally annoy or disturb the quiet, comfort or repose of persons in any office, dwelling, commercial area, or other type of residence.

- (3) Tools and power tools and/or landscaping and yard maintenance equipment that are audible across a real property boundary, shall only be operated between the hours of 7:00 a.m. and 10:00 p.m. If the property is adjacent to a residential property, such tools shall only be operated between the hours of 7:00 a.m. and 8:00 p.m.

(D) Schools; courts; churches; medical facility.

The creation of any excessive noise adjacent to any school, institution of learning, church, official government meeting, or court while they are in session or adjacent to any medical facility, and which unreasonably interferes with the work of such institution, or which disturbs or unduly annoys patients in the medical facility, provided that conspicuous signs are displayed about such institutions indicating the presence of such institutions, shall be a violation of this section.

(E) Screeching of tires.

The operation of any motor vehicle in such a way as to cause the tires thereof to screech except where the same is necessarily caused in an emergency in an attempt by the operator to avoid an accident or the causing of damage or injury shall be deemed a violation.

(F) Horns, signal devices.

No person shall sound any horn or audible signal device of any motor vehicle, boat, machine or stationary boiler of any kind in excess in order to disturb the peace, except as

required by law, or as a danger warning, nor shall it be sounded for any unnecessary or unreasonable period of time.

(G) Vehicles out of repair, exhaust.

It shall be unlawful to operate any automobile, motorcycle, motor scooter, go-cart, or any other vehicle, or so loaded or in such a manner as to create loud and unnecessary grating, grinding, rattling, or other noise, including excessive noise coming through the exhaust thereof to include modification or removal of the muffler.

(H) Special use permits and variances for special events.

(1) The use of any loudspeaker, electronic system, sound amplifier or other similar device at any location intended for a special event which is within 500 feet of the property boundary of a residential area or noise sensitive area as defined in this section is prohibited unless a special use permit has been obtained from the City of Rincon for the operation of such loudspeaker, electronic system, sound amplifier or other similar device. Such special use permits shall be granted on a case-by-case basis. Those desiring to obtain such a special use permit shall make application to the Planning and Development Department. The Planning and Development Department shall review the application and shall transmit it to the City Manager or designee with a recommendation. In reviewing the application, the Planning and Development Department and the City Manager shall consider the following:

- a. The ability of noise from the device to be heard in the residential or noise sensitive areas.
- b. The nature and zoning of the applicant's property.
- c. The time of day or night proposed for use of the device.
- d. The number of requests per year.

(2) Special variances shall be granted by notice to the applicant containing all necessary conditions, including a time limit on the permitted activity. The special variance shall not become effective until all conditions are agreed to by the applicant. Noncompliance with any condition of the special variance shall terminate it and subject the person holding it to those provisions of this section regulating the source of sound or activity for which the special variance was granted.

(I) Persons responsible.

Any person operating or responsible for the operation of a device or machine creating noise prohibited by this section, including the owner, operator, lessee and custodian of the device or machine, as well as the owner and lessee of the real property on which the device or machine is located, shall be guilty of a violation of this section.

(J) Exemptions.

- (1) The emission of sound for the purpose of alerting persons to the existence of an actual emergency.
- (2) Noises from sirens or other emergency equipment resulting from any authorized emergency personnel.
- (3) Train/rail, air transportation and public mass transportation vehicles.

- (4) Noises from bells and chimes while being used in conjunction with religious services.
- (5) Noises from machinery permitted for construction activity are exempt during the hours of 7:00 a.m. and 8:00 p.m.
- (6) Noise that results from sporting activities located in city parks between the hours of 8:00 a.m. and 11:30 p.m.
- (7) Fire alarms and burglar alarms from commercial, industrial, and residential structures.
- (8) Noise from any automobile alarm, provided such alarm shall terminate its operation within five minutes of its activation if the sound is uninterrupted or ten minutes if the sound is intermittent.
- (9) Noise resulting from any practice, performance, or activity sponsored by or associated with schools, city functions, and/or the educational process administered by a recognized institution of learning, including, but not limited to band, choir, sporting activity, festival, and orchestral performances between the hours of 7:00 a.m. and 11:00 p.m.
- (10) Emergency work required for public safety or repairs necessary for utility services.
- (11) Events with amplified sound that are operating within the time and volume parameters set forth in an approved special events permit.
- (12) Noise generated by properly maintained machinery operating within designated industrial areas.

(K) Enforcement procedures.

- (1) The city may prosecute noise related violations by issuance of a city ordinance citation. If an ordinance violation citation is issued to the owner and it is determined by the municipal court that this section has been violated, the person may be punished by a fine as set forth in the City's fee schedule. Subsequent violations of the same provisions of the code sections by the same owner or agent shall be in the determination of the court.
- (2) In addition to issuing a fine as provided, the Municipal Court Judge may issue an order requiring immediate abatement of any sound source alleged to be in violation of this section.
- (3) No provision of this section shall be construed to impair any common law or statutory cause of action, or legal remedy therefore, of any person for injury or damage arising from any violation of this section or from other law.
- (4) The city police department shall have the responsibility for the enforcement of this section.

Sec. 90-309. – Soil Erosion, Sedimentation & Pollution Control.

(A) - Exemptions.

This Section shall apply to any land-disturbing activity undertaken by any person on any land except for the following:

- (1) Such minor land-disturbing activities as home gardens and individual home landscaping, repairs, maintenance work, fences, and other related activities which result in minor soil erosion;
- (2) The construction of single-family residences, when such construction disturbs less than one acre and is not a part of a larger common plan of development or sale with a planned disturbance of equal to or greater than one acre and not otherwise exempted under this paragraph; provided, however, that construction of any such residence shall conform to the minimum requirements as set forth in O.C.G.A. § 12-7-6 and this paragraph. For single-family residence construction covered by the provisions of this paragraph, there shall be a buffer zone between the residence and any state waters classified as trout streams pursuant to Article 2 of Chapter 5 of the Georgia Water Quality Control Act. In any such buffer zone, no land-disturbing activity shall be constructed between the residence and the point where vegetation has been wrested by normal stream flow or wave action from the banks of the trout waters. For primary trout waters, the buffer zone shall be at least 50 horizontal feet, and no variance to a smaller buffer shall be granted. For secondary trout waters, the buffer zone shall be at least 50 horizontal feet, but the director may grant variances to no less than 25 feet. Regardless of whether a trout stream is primary or secondary, for first order trout waters, which are streams into which no other streams flow except for springs, the buffer shall be at least 25 horizontal feet, and no variance to a smaller buffer shall be granted. The minimum requirements of O.C.G.A. § 12-7-6(b) and the buffer zones provided by this paragraph shall be enforced by the local issuing authority;
- (3) Agricultural operations as defined in O.C.G.A. § 1-3-3, "definitions", to include raising, harvesting or storing of products of the field or orchard; feeding, breeding or managing livestock or poultry; producing or storing feed for use in the production of livestock, including but not limited to cattle, calves, swine, hogs, goats, sheep, and rabbits or for use in the production of poultry, including but not limited to chickens, hens and turkeys; producing plants, trees, fowl, or animals; the production of aqua culture, horticultural, dairy, livestock, poultry, eggs and apiarian products; farm buildings and farm ponds;
- (4) Forestry land management practices, including harvesting; provided, however, that when such exempt forestry practices cause or result in land-disturbing or other activities otherwise prohibited in a buffer, as established in Sec. 90-309(A)(2), no other land-disturbing activities, except for normal forest management practices, shall be allowed on the entire property upon which the forestry practices were conducted for a period of three years after completion of such forestry practices;
- (5) Any project carried out under the technical supervision of the Natural Resources Conservation Service (NRCS) of the United States Department of Agriculture;
- (6) Any project involving less than one acre of disturbed area; provided, however, that this exemption shall not apply to any land-disturbing activity within a larger common plan of development or sale with a planned disturbance of equal to or greater than one acre or within 200 feet of the bank of any state waters, and for purposes of this paragraph, "state waters" excludes channels and drainage ways

which have water in them only during and immediately after rainfall events and intermittent streams which do not have water in them year-round; provided, however, that any person responsible for a project which involves less than one acre, which involves land-disturbing activity, and which is within 200 feet of any such excluded channel or drainage way, must prevent sediment from moving beyond the boundaries of the property on which such project is located and provided, further, that nothing contained herein shall prevent the local issuing authority from regulating any such project which is not specifically exempted by paragraphs (1), (2), (3), (4), (5), (7), or (9) of this section;

- (7) Construction or maintenance projects, or both, undertaken or financed in whole or in part, or both, by the department of transportation, the Georgia Highway Authority, or the state road and tollway authority; or any road construction or maintenance project, or both, undertaken by any county or municipality; provided, however, that construction or maintenance projects of the Department of Transportation or the state road and tollway authority which disturb one or more contiguous acres of land shall be subject to provisions of O.C.G.A. § 12-7-7.1; except where the Department of Transportation, the Georgia Highway Authority, or the state road and tollway authority is a secondary permittee for a project located within a larger common plan of development or sale under the state general permit, in which case a copy of a notice of intent under the state general permit shall be submitted to the local issuing authority, the local issuing authority shall enforce compliance with the minimum requirements set forth in O.C.G.A. § 12-7-6 as if a permit had been issued, and violations shall be subject to the same penalties as violations by permit holders;
- (8) Any land-disturbing activities conducted by any electric membership corporation or municipal electrical system or any public utility under the regulatory jurisdiction of the public service commission, any utility under the regulatory jurisdiction of the Federal Energy Regulatory Commission, any cable television system as defined in O.C.G.A. § 36-18-1, or any agency or instrumentality of the United States engaged in the generation, transmission, or distribution of power; except where an electric membership corporation or municipal electrical system or any public utility under the regulatory jurisdiction of the public service commission, any utility under the regulatory jurisdiction of the Federal Energy Regulatory Commission, any cable television system as defined in O.C.G.A. § 36-18-1, or any agency or instrumentality of the United States engaged in the generation, transmission, or distribution of power is a secondary permittee for a project located within a larger common plan of development or sale under the state general permit, in which case the local issuing authority shall enforce compliance with the minimum requirements set forth in O.C.G.A. § 12-7-6 as if a permit had been issued, and violations shall be subject to the same penalties as violations by permit holders; and
- (9) Any public water system reservoir.

(B) - Minimum requirements for erosion, sedimentation and pollution control using best management practices.

- (1) *General provisions.* Excessive soil erosion and resulting sedimentation can take place during land-disturbing activities if requirements of the ordinance and the

NPDES General Permit are not met. Therefore, plans for those land-disturbing activities which are not exempted by this Section shall contain provisions for application of soil erosion, sedimentation and pollution control measures and practices. The provisions shall be incorporated into the erosion, sedimentation and pollution control plans. Soil erosion, sedimentation and pollution control measures and practices shall conform to the minimum requirements of Sec. 90-309 (B) (2). The application of measures and practices shall apply to all features of the site, including street and utility installations, drainage facilities and other temporary and permanent improvements. Measures shall be installed to prevent or control erosion, sedimentation and pollution during all stages of any land-disturbing activity in accordance with requirements of this Section and the NPDES General Permit.

(2) *Minimum requirements/BMPs.*

- a. Best management practices as set forth in this Section shall be required for all land-disturbing activities. Proper design, installation, and maintenance of best management practices shall constitute a complete defense to any action by the director or to any other allegation of noncompliance with paragraph (2) of this subsection or any substantially similar terms contained in a permit for the discharge of stormwater issued pursuant to O.C.G.A. § 12-5-30(f), the "Georgia Water Quality Control Act". As used in this subsection the terms "proper design" and "properly designed" mean designed in accordance with the hydraulic design specifications contained in the "Manual for Erosion and Sediment Control in Georgia" specified in O.C.G.A. § 12-7-6(b).
- b. A discharge of stormwater runoff from disturbed areas where best management practices have not been properly designed, installed, and maintained shall constitute a separate violation of any land-disturbing permit issued by a local issuing authority or of any state general permit issued by the division pursuant to O.C.G.A. § 12-5-30(f), the "Georgia Water Quality Control Act", for each day on which such discharge results in the turbidity of receiving waters being increased by more than 25 nephelometric turbidity units for waters supporting warm water fisheries or by more than ten nephelometric turbidity units for waters classified as trout waters. The turbidity of the receiving waters shall be measured in accordance with guidelines to be issued by the director. This paragraph shall not apply to any land disturbance associated with the construction of single-family homes which are not part of a larger common plan of development or sale unless the planned disturbance for such construction is equal to or greater than five acres.
- c. Failure to properly design, install, or maintain best management practices shall constitute a violation of any land-disturbing permit issued by a local issuing authority or of any state general permit issued by the division pursuant to O.C.G.A. § 12-5-30(f), the "Georgia Water Quality Control Act", for each day on which such failure occurs.

- d. The director may require, in accordance with regulations adopted by the board, reasonable and prudent monitoring of the turbidity level of receiving waters into which discharges from land-disturbing activities occur.
 - e. The local issuing authority may set more stringent buffer requirements than stated in (3)(o) and (p) below, in light of O.C.G.A. § 12-7-6(c).
- (3) The rules and regulations, ordinances, or resolutions adopted pursuant to O.C.G.A. § 12-7-1 et seq. for the purpose of governing land-disturbing activities shall require, as a minimum, protections at least as stringent as the state general permit; and best management practices, including sound conservation and engineering practices to prevent and minimize erosion and resultant sedimentation, which are consistent with, and no less stringent than, those practices contained in the Manual for Erosion and Sediment Control in Georgia published by the Georgia Soil and Water Conservation Commission as of January 1 of the year in which the land-disturbing activity was permitted, as well as the following:
- a. Stripping of vegetation, regrading and other development activities shall be conducted in a manner so as to minimize erosion;
 - b. Cut-fill operations must be kept to a minimum;
 - c. Development plans must conform to topography and soil type so as to create the lowest practicable erosion potential;
 - d. Whenever feasible, natural vegetation shall be retained, protected and supplemented;
 - e. The disturbed area and the duration of exposure to erosive elements shall be kept to a practicable minimum;
 - f. Disturbed soil shall be stabilized as quickly as practicable;
 - g. Temporary vegetation or mulching shall be employed to protect exposed critical areas during development;
 - h. Permanent vegetation and structural erosion control practices shall be installed as soon as practicable;
 - i. To the extent necessary, sediment in run-off water must be trapped by the use of debris basins, sediment basins, silt traps, or similar measures until the disturbed area is stabilized. As used in this paragraph, a disturbed area is stabilized when it is brought to a condition of continuous compliance with the requirements of O.C.G.A. § 12-7-1 et seq.;
 - j. Adequate provisions must be provided to minimize damage from surface water to the cut face of excavations or the sloping of fills;
 - k. Cuts and fills may not endanger adjoining property;
 - l. Fills may not encroach upon natural watercourses or constructed channels in a manner so as to adversely affect other property owners;

- m. Grading equipment must cross flowing streams by means of bridges or culverts except when such methods are not feasible, provided, in any case, that such crossings are kept to a minimum;
- n. Land-disturbing activity plans for erosion, sedimentation and pollution control shall include provisions for treatment or control of any source of sediments and adequate sedimentation control facilities to retain sediments on-site or preclude sedimentation of adjacent waters beyond the levels specified in Sec. 90-309 (B)(2);
- o. Except as provided in paragraph (16) of this subsection, there is established a 25-foot buffer along the banks of all state waters, as measured horizontally from the point where vegetation has been wrested by normal stream flow or wave action, except where the director determines to allow a variance that is at least as protective of natural resources and the environment, where otherwise allowed by the director pursuant to O.C.G.A. § 12-2-8, where a drainage structure or a roadway drainage structure must be constructed, provided that adequate erosion control measures are incorporated in the project plans and specifications, and are implemented; or along any ephemeral stream. As used in this provision, the term "ephemeral stream" means a stream: that under normal circumstances has water flowing only during and for a short duration after precipitation events; that has the channel located above the ground-water table year-round; for which ground water is not a source of water; and for which runoff from precipitation is the primary source of water flow. Unless exempted as along an ephemeral stream, the buffers of at least 25 feet established pursuant to part 6 of Article 5, Chapter 5 of Title 12, the "Georgia Water Quality Control Act", shall remain in force unless a variance is granted by the Director as provided in this paragraph. The following requirements shall apply to any such buffer:
 - i. No land-disturbing activities shall be conducted within a buffer and a buffer shall remain in its natural, undisturbed state of vegetation until all land-disturbing activities on the construction site are completed. Once the final stabilization of the site is achieved, a buffer may be thinned or trimmed of vegetation as long as a protective vegetative cover remains to protect water quality and aquatic habitat and a natural canopy is left in sufficient quantity to keep shade on the stream bed; provided, however, that any person constructing a single-family residence, when such residence is constructed by or under contract with the owner for his or her own occupancy, may thin or trim vegetation in a buffer at any time as long as protective vegetative cover remains to protect water quality and aquatic habitat and a natural canopy is left in sufficient quantity to keep shade on the stream bed; and
 - ii. The buffer shall not apply to the following land-disturbing activities, provided that they occur at an angle, as measured from the point of crossing, within 25 degrees of perpendicular to the stream; cause a

width of disturbance of not more than 50 feet within the buffer; and adequate erosion control measures are incorporated into the project plans and specifications and are implemented: (i) Stream crossings for water lines; or (ii) Stream crossings for sewer lines; and

- p. There is established a 50-foot buffer as measured horizontally from the point where vegetation has been wrested by normal stream flow or wave action, along the banks of any state waters classified as "trout streams" pursuant to Article 2 of Chapter 5 of Title 12, the "Georgia Water Quality Control Act", except where a roadway drainage structure must be constructed; provided, however, that small springs and streams classified as trout streams which discharge an average annual flow of 25 gallons per minute or less shall have a 25-foot buffer or they may be piped, at the discretion of the landowner, pursuant to the terms of a rule providing for a general variance promulgated by the board, so long as any such pipe stops short of the downstream landowner's property and the landowner complies with the buffer requirement for any adjacent trout streams. The director may grant a variance from such buffer to allow land-disturbing activity, provided that adequate erosion control measures are incorporated in the project plans and specifications and are implemented. The following requirements shall apply to such buffer:
 - i. No land-disturbing activities shall be conducted within a buffer and a buffer shall remain in its natural, undisturbed, state of vegetation until all land-disturbing activities on the construction site are completed. Once the final stabilization of the site is achieved, a buffer may be thinned or trimmed of vegetation as long as a protective vegetative cover remains to protect water quality and aquatic habitat and a natural canopy is left in sufficient quantity to keep shade on the stream bed; provided, however, that any person constructing a single-family residence, when such residence is constructed by or under contract with the owner for his or her own occupancy, may thin or trim vegetation in a buffer at any time as long as protective vegetative cover remains to protect water quality and aquatic habitat and a natural canopy is left in sufficient quantity to keep shade on the stream bed; and
 - ii. The buffer shall not apply to the following land-disturbing activities, provided that they occur at an angle, as measured from the point of crossing, within 25 degrees of perpendicular to the stream; cause a width of disturbance of not more than 50 feet within the buffer; and adequate erosion control measures are incorporated into the project plans and specifications and are implemented: (i) Stream crossings for water lines; or (ii) Stream crossings for sewer lines.
- q. Open air burning shall not be permitted as an action to clear a site or dispose of waste. Debris and organic matter on site can only be disposed of through grinder or chipping machines and/or air curtain destructor machinery.

- (4) Nothing contained in O.C.G.A. § 12-7-1 et seq. shall prevent any local issuing authority from adopting rules and regulations, ordinances, or resolutions which contain stream buffer requirements that exceed the minimum requirements in Sec. 90-312 (B)(b) and (c).
- (5) The fact that land-disturbing activity for which a permit has been issued results in injury to the property of another shall neither constitute proof of nor create a presumption of a violation of the standards provided for in this Section or the terms of the permit.

(C) - Inspection and enforcement.

- (1) The City of Rincon will periodically inspect the sites of land-disturbing activities for which permits have been issued to determine if the activities are being conducted in accordance with the plan and if the measures required in the plan are effective in controlling erosion and sedimentation. Also, the local issuing authority shall regulate primary, secondary and tertiary permittees as such terms are defined in the state general permit. Primary permittees shall be responsible for installation and maintenance of best management practices where the primary permittee is conducting land-disturbing activities. Secondary permittees shall be responsible for installation and maintenance of best management practices where the secondary permittee is conducting land-disturbing activities. Tertiary permittees shall be responsible for installation and maintenance where the tertiary permittee is conducting land-disturbing activities. If, through inspection, it is deemed that a person engaged in land-disturbing activities as defined herein has failed to comply with the approved plan, with permit conditions, or with the provisions of this Section, a written notice to comply shall be served upon that person. The notice shall set forth the measures necessary to achieve compliance and shall state the time within which such measures must be completed. If the person engaged in the land-disturbing activity fails to comply within the time specified, he or she shall be deemed in violation of the UDO.
- (2) The local issuing authority must amend its ordinances to the extent appropriate within 12 months of any amendments to the Erosion and Sedimentation Act of 1975.
- (3) The City of Rincon shall have the power to conduct such investigations as it may reasonably deem necessary to carry out duties as prescribed in this Section, and for this purpose to enter at reasonable times upon any property, public or private, for the purpose of investigation and inspecting the sites of land-disturbing activities.
- (4) No person shall refuse entry or access to any authorized representative or agent of the local issuing authority, the commission, the district, or division who requests entry for the purposes of inspection, and who presents appropriate credentials, nor shall any person obstruct, hamper or interfere with any such representative while in the process of carrying out his official duties.
- (5) The district or the commission or both shall semi-annually review the actions of counties and municipalities which have been certified as local issuing authorities pursuant to O.C.G.A. § 12-7-8(a). The district or the commission or both may provide technical assistance to any county or municipality for the purpose of

improving the effectiveness of the county's or municipality's erosion, sedimentation and pollution control program. The district or the commission shall notify the division and request investigation by the division if any deficient or ineffective local program is found.

- (6) The division may periodically review the actions of counties and municipalities which have been certified as local issuing authorities pursuant to O.C.G.A. § 12-7-8(a). Such review may include, but shall not be limited to, review of the administration and enforcement of a governing authority's ordinance and review of conformance with an agreement, if any, between the district and the governing authority. If such review indicates that the governing authority of any county or municipality certified pursuant to O.C.G.A. § 12-7-8(a) has not administered or enforced its ordinances or has not conducted the program in accordance with any agreement entered into pursuant to O.C.G.A. § 12-7-7(e), the division shall notify the governing authority of the county or municipality in writing. The governing authority of any county or municipality so notified shall have 90 days within which to take the necessary corrective action to retain certification as a local issuing authority. If the county or municipality does not take necessary corrective action within 90 days after notification by the division, the division shall revoke the certification of the county or municipality as a local issuing authority.

(D) Penalties and incentives.

- (1) *Failure to obtain a permit for land-disturbing activity.* If any person commences any land-disturbing activity requiring a land-disturbing permit as prescribed in this Section without first obtaining said permit, the person shall be subject to revocation of his business license, work permit or other authorization for the conduct of a business and associated work activities within the jurisdictional boundaries of the local issuing authority.
- (2) *Stop-work orders.*
- a. For the first and second violations of the provisions of this Section, the City Manager or designee or the local issuing authority shall issue a written warning to the violator. The violator shall have five days to correct the violation. If the violation is not corrected within five days, the director or the local issuing authority shall issue a stop-work order requiring that land-disturbing activities be stopped until necessary corrective action or mitigation has occurred; provided, however, that, if the violation presents an imminent threat to public health or waters of the state or if the land-disturbing activities are conducted without obtaining the necessary permit, the director or the local issuing authority shall issue an immediate stop-work order in lieu of a warning;
 - b. For a third and each subsequent violation, the director or the local issuing authority shall issue an immediate stop-work order; and
 - c. All stop-work orders shall be effective immediately upon issuance and shall be in effect until the necessary corrective action or mitigation has occurred.

- d. When a violation in the form of taking action without a permit, failure to maintain a stream buffer, or significant amounts of sediment, as determined by the local issuing authority or by the director or his or her designee, have been or are being discharged into state waters and where best management practices have not been properly designed, installed, and maintained, a stop work order shall be issued by the local issuing authority or by the director or his or her designee. All such stop work orders shall be effective immediately upon issuance and shall be in effect until the necessary corrective action or mitigation has occurred. Such stop work orders shall apply to all land-disturbing activity on the site with the exception of the installation and maintenance of temporary or permanent erosion and sediment controls.
- (3) *Bond forfeiture.* If, through inspection, it is determined that a person engaged in land-disturbing activities has failed to comply with the approved plan, a written notice to comply shall be served upon that person. The notice shall set forth the measures necessary to achieve compliance with the plan and shall state the time within which such measures must be completed. If the person engaged in the land-disturbing activity fails to comply within the time specified, he shall be deemed in violation of this Section and, in addition to other penalties, shall be deemed to have forfeited his performance bond, if required to post one under the provisions of section 90-112. The local issuing authority may call the bond or any part thereof to be forfeited and may use the proceeds to hire a contractor to stabilize the site of the land-disturbing activity and bring it into compliance.
- (4) *Monetary penalties.*
- a. Any person who violates any provisions of this Section, or any permit condition or limitation established pursuant to the UDO, or who negligently or intentionally fails or refuses to comply with any final or emergency order of the City Manager or designee issued as provided in this Section shall be liable for a civil penalty not to exceed \$2,500.00 per day. For the purpose of enforcing the provisions of this Section, notwithstanding any provisions in any city charter to the contrary, municipal courts shall be authorized to impose penalty not to exceed \$2,500.00 for each violation. Notwithstanding any limitation of law as to penalties which can be assessed for violations of county ordinances, any magistrate court or any other court of competent jurisdiction trying cases brought as violations of this Section under county ordinances approved under this Section shall be authorized to impose penalties for such violations not to exceed \$2,500.00 for each violation. Each day during which violation or failure or refusal to comply continues shall be a separate violation.

(E) Education and certification.

- (1) Persons involved in land development design, review, permitting, construction, monitoring, or inspection or any land-disturbing activity shall meet the education and training certification requirements, dependent on their level of involvement with the process, as developed by the commission in consultation with the division and the stakeholder advisory board created pursuant to O.C.G.A. § 12-7-20.

- (2) For each site on which land-disturbing activity occurs, each entity or person acting as either a primary, secondary, or tertiary permittee, as defined in the state general permit, shall have as a minimum one person who is in responsible charge of erosion and sedimentation control activities on behalf of said entity or person and meets the applicable education or training certification requirements developed by the commission present on site whenever land-disturbing activities are conducted on that site. A project site shall herein be defined as any land-disturbance site or multiple sites within a larger common plan of development or sale permitted by an owner or operator for compliance with the state general permit.
- (3) Persons or entities involved in projects not requiring a state general permit but otherwise requiring certified personnel on site may contract with certified persons to meet the requirements of this Section.
- (4) If a state general permittee who has operational control of land-disturbing activities for a site has met the certification requirements of O.C.G.A. § 12-7-19(b)(1), then any person or entity involved in land-disturbing activity at that site and operating in a subcontractor capacity for such permittee shall meet those educational requirements specified in O.C.G.A § 12-7-19(b)(4) and shall not be required to meet any educational requirements that exceed those specified in said paragraph.

(F) Administrative appeal judicial review.

- (1) *Administrative remedies.* The suspension, revocation, modification or grant with condition of a permit by the local issuing authority upon finding that the holder is not in compliance with the approved erosion, sediment and pollution control plan; or that the holder is in violation of permit conditions; or that the holder is in violation of any ordinance; shall entitle the person submitting the plan or holding the permit to a hearing before the mayor and council within 30 days after receipt by the local issuing authority of written notice of appeal.
- (2) *Judicial review.* Any person, aggrieved by a decision or order of the local issuing authority, after exhausting his administrative remedies, shall have the right to appeal denovo to the Superior Court of Effingham County.

(G) Effectivity, validity and liability.

- (1) This Section shall become effective on adoption of this UDO.
- (2) *Validity.* If any section, paragraph, clause, phrase, or provision of this Section shall be adjudged invalid or held unconstitutional, such decisions shall not affect the remaining portions of the UDO.
- (3) *Liability.*
 - a. Neither the approval of a plan under the provisions of this Section, nor the compliance with provisions of this Section shall relieve any person from the responsibility for damage to any person or property otherwise imposed by law nor impose any liability upon the local issuing authority or district for damage to any person or property.
 - b. The fact that a land-disturbing activity for which a permit has been issued results in injury to the property of another shall neither constitute proof of

nor create a presumption of a violation of the standards provided for in this Section or the terms of the permit.

- c. No provision of this Section shall permit any persons to violate the Georgia Erosion and Sedimentation Act of 1975, the Georgia Water Quality Control Act or the rules and regulations promulgated and approved thereunder or pollute any waters of the state as defined thereby.

Sec. 90-310 Animals

(A) Nuisance Animals.

- (1) The keeping of any animal which by causing frequent, intermittent, or long continued noise that reasonably disturbs the quiet, comfort or repose of any person in the vicinity to such an extent that extends beyond a real property line, shall constitute a nuisance.
- (2) The keeping of roosters is prohibited within the City limits.

(B) Nuisance Animals; enforcement procedures.

- (1) Whenever any city resident shall complain to the police department that a dog which habitually barks, howls or yelps, or a cat/other animal which habitually cries or howls, is being kept by any person in the city, a city law enforcement officer, prior to the issuance of a citation, shall notify the owner of such dog or animal that a complaint has been received. If the notice given to the owner alleged to be keeping a dog or an animal in violation of this section is not in effect, then the police shall issue a formal warning to the owner of such dog or animal that the owner shall take whatever steps necessary to alleviate the barking, howling, yelping or crying. If there has been a warning given to the owner within the past 90 days, a citation shall be issued to the owner of the dog or animal. If, no owner is located the police officer shall notify the appropriate authority with the county's animal control department.
- (2) The civil and criminal provisions of this section shall be enforced by those persons or agencies designated by the city. The animal control officer shall have the power to conduct such investigations as may be deemed reasonably necessary to carry out the duties as referred to in this section, and for this purpose to enter at any reasonable time upon any property, public or private, for the purpose of investigating suspected violations of this section. It shall be unlawful for any person to interfere with an identified animal control officer in the performance of his duties. For purposes of this section, an animal control officer employed by the county shall be deemed an animal control officer of the city.
- (3) Whenever by this section any act is prohibited or is made or declared to be unlawful, or the doing of any act is required or the failure to do any act is declared to be unlawful, where no specific penalty is provided therefor, the violation of such provision of this section shall, upon conviction, be punishable by fine or imprisonment as provided by section 1-11. Each day such violation continues shall be considered a separate offense. Nothing contained in this section shall prevent

the city from taking such other lawful action as is necessary to prevent or remedy any violation of this section.

(C) Nuisance animals; abatement

- (1) Upon a finding by the municipal court that any animal constitutes a public nuisance within the definition of this section, the municipal court may order the owner or custodian to abate the nuisance by permanently removing the animal from the limits of the city, or by whatever other means the court deems reasonably likely to abate the nuisance. If the owner or custodian fails to abide by such order, the court, after hearing, may order that the animal be destroyed by the animal control officer. For purposes of this section, a finding by the county magistrate court shall be deemed the finding of the municipal court.

(D) Vicious Animals and Guard Dogs

- (1) Muzzling or caging. It shall be unlawful for any person to take or keep any vicious animal outside a building or secure enclosure, unless such animal is securely muzzled or caged.
- (2) *Posting of notice.* It shall be the duty of each owner, tenant or custodian of property upon which or within which a vicious dog is located to conspicuously and permanently post a notice on the outside of the property stating: "Warning Bad Dog." The letters shall be one inch or larger. In the case of a building, notice shall be conspicuously posted on or about each and every entrance and exit. In the case of a general enclosure in which a guard dog is located, the notices shall be conspicuously posted at every entrance and exit throughout the enclosure.

(E) Keeping of Dogs and Cats

- (1) No person shall raise or keep, or permit to be raised or kept, on premises that he owns or controls inside the city any dog or cat, unless:
 - a. Cages or other shelters for such animals are kept clean and at least 10 feet from any property line.
 - b. Pens and other enclosures are well drained.
- (2) It shall be unlawful for any person to keep any unrestrained dog, other than a hunting dog, as provided in this section.

(F) Keeping Horses, Livestock, and Other Animals

- (1) Keeping of horses, mules, asses, cows, sheep, goats, hogs, dogs, rabbits, guinea pigs, hamsters, chickens, swine, turkeys, geese, ducks, pigeons, or similar fowl or animals shall be prohibited except under the following conditions:
 - i. Any housing or enclosure used by such animals or fowl shall be well drained, free from accumulations of animal excrement and objectionable odors, and otherwise clean and sanitary. Animal excrement shall be disposed of in a manner approved by the health officer.
 - ii. Horse stables (not enclosures or fences) shall be a minimum of 200 feet from any occupied building except the dwelling unit of the owner,

unless the owner of the adjacent building and the health officer give permission for a lesser distance.

- iii. Swine shall only be permitted on properties 5 acres or greater located in the AR-1 zoning district.
- iv. Such animals or fowl shall be kept at the following minimum distances from any occupied building except the dwelling unit of the owner:

Animals	Distance (in feet)
Horses, mules, cattle, sheep, goats or similar animals	200
Dogs (four or more)	300
Rabbits, guinea pigs, hamsters and similar animals (five or more)	200
Chickens, turkeys, geese, ducks, pigeons and similar fowl (five or more)	200

- v. Animals and fowl not specifically mentioned in this section shall be kept at minimum distances deemed reasonable and necessary by the health officer or animal control officer.
 - vi. All animals or fowl, and dogs subject to confinement under the rabies control regulations, shall be kept in adequate enclosures or tethered. This section shall only apply to dogs and cats that are subject to quarantine.
- (2) Diseased animals or fowl which might infect healthy animals or cause a menace to the public health shall be isolated or destroyed as the health officer deems necessary.
- (3) In the case of bona fide licensed pet shops, veterinary hospitals, stockyards, poultry houses and similar commercial establishments, the health officer may modify the requirements of this section where undue hardship would result from their strict enforcement.

(G) General Care and Feeding

- (1) No owner shall fail to provide his animal with sufficient good and wholesome food and water, proper shelter and protection from the weather, veterinary care when needed to prevent suffering, and humane care and treatment.

(2) No person shall beat, cruelly ill treat, torment, overload, overwork or otherwise abuse an animal, or cause, instigate or permit any dogfight, or other combat between animals or between animals and humans.

(3) No owner of an animal shall abandon the animal.

(H) Animal Waste

The owner of every animal shall be responsible for the removal of any excreta deposited by his animals on public walks, recreation areas or private or public property and buildings of the city.

(I) Care of Injured Animals

Any person who, as the operator of a motor vehicle, strikes a domestic animal shall immediately report the death or injury to the animal owner or to the animal control department.

(J) Euthanasia

When any animal, whose owner is unknown or incapable of being located, is impounded subject to the provisions of this article, and such animal is injured or otherwise in a state of suffering, it shall thereupon be the duty of the animal control officer to obtain the opinion of a licensed practicing veterinarian as to the extent of such suffering or injury to such animal. When such opinion is that euthanasia should be performed, it shall then become the duty of the animal control officer to authorize such euthanasia. If the owner is located, it shall be done at the owner's expense.

(K) Hunting Dogs

Deer dogs are allowed to run in wooded areas, where permitted by the owner of the property, during deer hunting season, as established by federal and/or state laws and regulations. All hunting dogs shall bear tags containing the owner's name, address and phone number, and shall be vaccinated in accordance with state rabies shot regulations. All hunting dogs used in hunting game shall be properly supervised.

(L) Animals in Recreational Areas

It shall be unlawful for any person to bring any pet, animal, dog or cat, of any age, whether or not such animal is on a leash, into any designated recreational area or park. There shall be excepted from this provision all Seeing Eye dogs or animals.

(M) Annual Inoculation

All dogs and cats housed, kept or boarded within the city shall be inoculated annually against rabies.

(N) Vaccinations; qualifications to provide

- (1) No person shall be allowed to vaccinate dogs or cats against rabies who is not licensed to practice veterinary medicine in the state.
- (2) A veterinarian or any person having vaccinated dogs or cats against rabies with inferior vaccine or any drug, chemical or biological material, which is not specified in this article or that has not been approved by the health department, or who violates any provision of this article, in whole or in part, shall not be permitted to vaccinate dogs or cats against rabies.

(O) Impoundment, Quarantine and Disposal of Animals Generally

Any dog found within the city not vaccinated as required by this article within the previous 12 months shall likewise be impounded, quarantined or otherwise disposed of as required by this article.

(P) Deadline for Payment of License Taxes and Fees After Impoundment; Adoption or Euthanasia

Any dog or cat impounded under this article whose owner, possessor, or representative shall not come forward within three working days after the impoundment and pay the license tax and the fees specified in this article shall be put up for adoption or euthanasia in some humane way.

(Q) Quarantine

- (1) Where rabies has been found to exist in any warmblooded animal, or where its existence is suspected, the health department may designate an area within which quarantine shall be maintained as provided by the terms of this article. Every such animal shall thereupon be immediately confined to the premises designated by the health department, whether or not the animal has been vaccinated against rabies.
- (2) No animal shall be removed from or brought into a quarantined area without written permission of the health department. The application for such permission shall be in writing, filed with the health department, stating the reason for movement and the location at which the animal will be confined after movement.
- (3) When quarantine is ordered by the health department, it shall be maintained for a period of 90 days, with the right of the health department, by its duly authorized authority, to increase or diminish the period as, in its uncontrolled discretion, the public safety and health may require.
- (4) Where an animal has been suspected of having rabies or has rabies symptoms, the area or premises where such animals are kept shall be posted by the health department with signs to read as follows: "Rabies Suspected" or "Rabies, Keep From Animals." Such signs shall be conspicuously displayed on the premises, printed with type that is easily legible and shall remain on the premises for the duration of the quarantine.
- (5) Persons living within a quarantine area having in their possession an animal subject to rabies or to the terms of this article shall be given written notice of the quarantine, the animals subject thereto, and an order to confine their animals so subject to the premises of the owner, together with any other information the health

department deems advisable. Such notice shall be signed by a duly authorized agent of the health department.

- (6) The violation by any person of any quarantine order issued by the health officer shall be a violation of this article, and the person so violating shall be subject to all the penalties prescribed by law for a violation.

(R) Examination of Heads

The heads of all domestic animals and of all wild animals suspected of having rabies before their death or having rabies at the time of death shall be submitted to the state laboratory for examination.

(S) Dogs, Cats, or Livestock Running at Large

- (1) It shall be unlawful for the owner or keeper of any dog, other than a hunting dog during hunting season, or cat to permit them to run at large in the city, or to stray from the premises of the owner or keeper or go upon the premises of any other person.
- (2) If any properly tagged hunting dog is taken into custody by the animal control unit, such dog shall be boarded for a minimum of five days by the animal control unit at the boarding cost provided in this article. No penalties shall be charged. If an owner does not repossess his dog within five days of the dog's having been taken into the custody of the animal control unit, such dog shall be treated as abandoned.
- (3) It shall be unlawful for the owner of any animal to allow such animal to feed or to be loose on any part of the right-of-way of any public road of the city.
- (4) Any dog found within the city not wearing or displaying a valid, current vaccination tag, and not confined within a fence on the premises of the owner with all gates and openings closed, shall be immediately impounded, quarantined, or otherwise disposed of as required by this article.

(T) Confinement of Animals

Unrestrained dogs, nuisance animals and animals found running at large shall be taken by the animal control officer and impounded in the shelter and confined in a humane manner.

(U) Period of Impoundment for Dogs and Cats

Impounded dogs and cats shall be kept for not less than three working days depending upon the physical condition of the animal, except where such dog or cat is found to be a nuisance, in which event such dog or cat shall be disposed of as required by the judge of the municipal court or the county magistrate judge.

(V) Fees and Charges

Any owner of or person adopting an impounded animal shall pay such fees and charges as may be required by the schedule of fees and charges on file in the office of the city clerk.

Sec. 90-311 Lights

- (1) All luminaries, except street lighting, shall be located, designed, fitted, aimed, shielded, installed, and maintained to limit illumination only to the target and to minimize light trespass. Spillover of light onto adjacent property shall be prohibited.

Sec. 90-312 Road Conditions

- (1) All private roads and easements used to access residential and commercial areas shall be maintained in a passable condition and free of potholes, so as to ensure safe vehicular access.

Sec. 90-313 Vegetation

- (1) All trees, greenery, and shrubbery shall be trimmed and properly maintained on the property, as to not create a property nuisance; grass and weeds shall be at a height no greater than 12 inches. No vegetation within three feet of the home shall block, obstruct, or cover the windows or doors of the structure, nor shall any vegetation block any property entranceway, walkway, driveway, or access to the property.

- (2) Any dead or diseased tree or part of a tree is a nuisance when, by reason of such condition, natural forces may, more readily than if such tree or part thereof were live or not diseased, fell or blow such tree or part thereof onto public ways or public property, off of the property of the owner of such tree, and thereby imperil life or property or impede traffic.

Sec. 90.314 Drainage Ditches

(A) Open air burning; burning of leaves; burning in ditches.

No person shall cause, suffer, allow or permit open burning of refuse, or conduct a salvage operation by open burning, except that persons may burn leaves collected within the boundaries of the lot upon which the leaves are being burned. No leaves shall be collected or burned in drainage ditches.

(B) Permitting oil or similar material to flow into street or drainage ditch.

- (1) It shall be unlawful for any person to cause or permit petroleum products, coal oil or any other oil or lubricating fluid to fall or flow on, over or into any street or drainage ditch within the corporate limits of the city.

- (2) Any person using, handling or otherwise dealing in petroleum products, coal oil or any other oil or lubricating fluid shall provide adequate traps to catch and eliminate such products before disposing of any such waste.

(C) Obstruction.

It shall be unlawful for any person to obstruct, block, divert or otherwise interfere with the flow of water within the drainage ditches and roadside ditches in the corporate limits of the city.

(D) Drainage easements.

Where a subdivision is traversed by a watercourse, drainageway, channel or stream, there shall be provided a stormwater easement or drainage right-of-way, which shall conform substantially with the lines of such watercourse, drainage, channel or stream or shall be of such addition width or construction, or both, as will be adequate for the purpose.

(E) Maintenance easements for drainage canals.

Where a drainage canal is of such size that it requires mechanical means for cleaning, such as a dragline, there shall be a 12-foot access easement on either side of such canal for access purposes.

Sec. 90-315 Vehicles

(A) Derelict vehicles.

- (1) It shall be unlawful for a derelict vehicle, which is in an inoperative or junk condition, to be parked or allowed to stand on any residentially zoned property for longer than 30 days unless it is in an enclosed building on the premises.

(B) Parking of vehicles.

- (1) It shall be unlawful to park any vehicle, including but not limited to trailers and boats, on any unpaved surface such as grass, pine straw, or mulch at any spot on a non-residential property, unless approved through a special event permit or the site plan approval process.
- (2) Parking of a vehicle on the front yard or in the front of the principal building within a residential district is prohibited, except on a paved driveway or other hardened surface made of concrete, asphalt, tar and gravel mix, or the like, or in a carport or garage.
- (3) Parking of a vehicle on sidewalks is prohibited.

(C) Vehicle repair.

- (1) No person shall perform a major automotive repair that includes engine, body, or repainting of more than one (1) vehicle at any one (1) time on residentially zoned property unless the person performing the overhaul is the occupant of the premises, the person performing the overhaul is the owner of the vehicle, and the work is done inside a garage or enclosed structure.
- (2) Painting of vehicles is prohibited unless conducted inside an approved spray booth.

Sec. 90-316 Trash

(A) Sweeping, etc., trash on streets and sidewalks.

- (1) It shall be unlawful for any person or entity, his agent, employee, or his representative, or for any other person, to sweep, throw, place, scatter, or cause to be swept, thrown, placed, or scattered, any paper, paper wrappings, cardboard boxes, sweepings, rubbish, garbage, rotten fruit or vegetables, dead animals, leaves, trash, grass or yard clippings, can, cup, box, bottle or other vessel, or debris, such as is commonly and generally collected and hauled away by the city

disposal service to the dump grounds, into, in, on, or upon the streets, sidewalks, storm drains, public alleys, public parks, public property, or any property owned by the city, unless such enumerated matters and things are placed in adequate containers, conveniently located, for the city personnel to reach and collect for the purpose of disposing of same in regular routine operations of the city disposal service.

- (2) It shall be unlawful for any person or entity to sweep, throw, place or cause to be placed, located, or put in a position or place any of the enumerated matters or things listed above in section Sec. 90-314(A) and Sec. 90-314(B), which naturally can be blown, scattered, or carried by ordinary and usual winds and rains into, in, or upon any of the streets, sidewalks, storm drains, parks, public alleys, public property, or any property owned by the city, or upon the private property of others as scattered, untidy, unsightly, or unsanitary litter, rubbish, or debris.

(B) Throwing waste matter into unauthorized containers, streams and sewers.

- (1) No person shall dispose of waste matter in a private or commercial container unless authorized, except in emergency situations declared by the mayor. Waste matter is defined as follows:

- a. Animal waste;
- b. Petroleum products (oil, grease, diesel);
- c. Plastic bags and styrofoam containers;
- d. Tires, batteries;
- e. Bio-hazards (medical supplies, needles);
- f. Diapers or other related products.

- (2) No garbage, refuse, cooking oil, motor oil, dead animals, hazardous substances, or tires shall be thrown into any stream or sewer in the city.

(C) Unauthorized use of commercial-type bulk containers.

- (1) It shall be unlawful for any person or entity to deposit any refuse or otherwise interfere with the use of any commercial-type bulk refuse container which has not been rented by such person or entity. The individuals or entities paying for container refuse collection service are the only authorized users of such containers. Unauthorized use of such containers is prohibited.

(D) Refuse collection.

- (1) Garbage and recycling carts are to be placed by the right-of-way but not in the street no earlier than 24 hours before the scheduled pickup time and removed no later than 24 hours after the scheduled pickup time, unless the scheduled pickup is interrupted.
- a. Property owners, tenants, and property managers (if applicable) may be cited for violations.

- b. Commercial trash, bulk, and/or recycle containers shall be properly maintained. These storage bins must be stored within an approved dumpster enclosure.

Sec. 90-317– Other Nuisances

(A) Maintenance of proper sanitary conditions on premises by owners, etc.

- (1) Every person or entity, whether owner, tenant, agent or employee or management company owning, holding, managing or occupying property in the city, shall, at all times, maintain such property, whether a vacant lot or otherwise, a residence, an accessory structure, a swimming pool, a fence, or residential or nonresidential building, in a clean and sanitary condition to prevent a public health hazard.
- (2) The accumulation of wastepaper, trash, mattresses, furniture, dead trees, fallen trees, discarded tires, used oil, engines, mechanical parts, dismantled or discarded vehicles, and household debris is prohibited. This includes maintaining the property to inhibit the presence of roaches, snakes, rodents, and other vermin.
- (3) The 911 address shall remain visible from the right-of-way.
- (4) Lots that have been previously cleared, and where utilities have been installed, shall be properly maintained and shall comply with this Code section. Grass and weeds shall be at a height no greater than 12 inches.
- (5) Retention/Detention ponds shall be properly maintained by the property owner. They are not to be filled with dirt, vegetation, or debris. Nor shall they be driven in by motorized and non-motorized vehicles.
 - a. Altering the grade of the pond is prohibited without a permit or plan approved by the city.

(B) Creation of nuisance.

- (1) Any person who permits or allows any refuse, waste matter, pet feces, or other substance commonly classified as garbage and collected and disposed of by the city (or a private contractor), to remain at or upon any premises in the city in such a condition as to provide a breeding place for flies and mosquitos, a feeding place for rats, or a source of foul and obnoxious odors, or otherwise unsanitary conditions, shall be deemed to have created a nuisance.

Sec. 90-318 Enforcement Procedures and Assessments

(A) Enforcement

- (1.)The city may prosecute nuisance related violations by issuance of a city ordinance citation. If an ordinance violation citation is issued to the owner and it is determined by the municipal court that this section has been violated, the person may be punished by a fine as set forth in the City's fee schedule. Subsequent violations of the same provisions of the code sections by the same owner or agent shall be in the determination of the court.
- (2).In addition to issuing a fine as provided, the Municipal Court Judge may issue an order requiring immediate abatement of any nuisance alleged to be in violation of this section.

(B) Notice of assessment; time limit for payment; service of notice.

If the nuisance is not abated, a written statement shall be furnished by planning and development staff or other designated official to the owner, agent, or other party in charge of the property subject to the assessment provided for in this section showing the amount of the assessment. It shall be the duty of the owner, agent, or other party in charge of the property subject to such assessment to pay the clerk within 30 days after the receipt of such statement the entire amount of the assessment against such property and such owner, tenant, agent, or other party in charge of such property. Notice of such assessment shall be served personally upon each owner, tenant, agent, or other party owning, holding, occupying or in control of such property who resides in the city. Where such person is a nonresident of this city, such notice shall be mailed to the last known post office address of such person. If such owner, tenant, agent, or other party in control of the property is not known, it will be sufficient to serve such notice by posting the same before the front door of the city hall and at two other public places in the city.

When the city has caused weeds to be cut from any premises, or wastepaper, trash, or other rubbish removed, an ordinance shall be passed assessing the cost of the cutting of such weeds, and cleaning and rendering sanitary such vacant lot or other property against the owner, tenant, agent, or employee owning, occupying, or controlling such property. Such assessing ordinance shall thereupon assert a lien upon the property so cleaned and rendered sanitary and a lien against the owner, tenant, agent or other party in charge of such property. Such lien shall date from the completion of the work on the property, and such lien shall be declared at the time the assessing ordinance is passed.

(C) Failure to pay assessment; issuance and effect of execution.

Any such owner, tenant, agent, or other party in control of such property subject to assessment as provided in section (B) above who fails or refuses to pay to the clerk the amount of such assessment at the expiration of 30 days after the service of the notice of statement provided in section (B) above, the clerk shall issue an execution bearing date of its issuance in the name of the mayor of the city and specifying the purpose for which it is issued against the owner, tenant, agent, or other party in control of the property subject to the assessment and also against the property of such owner, tenant, agent or other party in control of the property upon which the work in question is performed. Such execution shall assert and be a lien against the property from the day of the completion of the performance of the work hereinbefore described and shall bear interest at the rate of seven percent per annum from the date on which it is issued.

(D) Delivery of execution; levy and sale of property; applicable law.

The execution issued under the provisions of section C above be delivered to the city manager who shall execute the same by levying upon and selling the property described therein or so much thereof as may be necessary for the amount due the city from the doing of such work, together with all costs that may accrue thereon. The law applicable to the sales under other executions issued by this city shall apply to the levy, notice, advertisement, and sale made under such execution, and the city manager shall have authority to execute a deed to the purchaser when the property is sold and shall deliver the possession thereof to the purchaser within the time required by law as under tax execution.

Sec. 90-319 – Sec. 90-320. - Reserved

Sec. 90-321. - Authorization.

Article IX, Section II of the Constitution of the State of Georgia and O.C.G.A. § 36-1-20(a) have delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the mayor and council of Rincon, Georgia, does ordain as follows.

Sec.90-322-. - Findings of fact.

- (A) The flood hazard areas of Rincon, Georgia are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood relief and protection, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.
- (B) These flood losses are caused by the occupancy in flood hazard areas of uses vulnerable to floods, which are inadequately elevated, floodproofed, or otherwise unprotected from flood damages, and by the cumulative effect of obstructions in floodplains causing increases in flood heights and velocities.

Sec.90-323. - Statement of purpose.

It is the purpose of this Chapter to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

- (1) Require that uses vulnerable to floods, including facilities, which serve such uses, be protected against flood damage at the time of initial construction;
- (2) Restrict or prohibit uses which are dangerous to health, safety and property due to water or erosion hazards, or which increase flood heights, velocities, or erosion;
- (3) Control filling, grading, dredging and other development which may increase flood damage or erosion;
- (4) Prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands; and
- (5) Control the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of floodwaters.

Sec.90-324. - Objectives.

The objectives of this Chapter are:

- (1) To protect human life and health;
- (2) To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in floodplains;
- (3) To help maintain a stable tax base by providing for the sound use and development of flood prone areas in such a manner as to minimize flood blight areas;
- (4) To minimize expenditure of public money for costly flood control projects;

- (5) To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (6) To minimize prolonged business interruptions; and
- (7) To insure that potential homebuyers are notified that property is in a flood area.

Sec. 90-325. - Lands to which this Chapter applies.

This Chapter shall apply to all areas within the jurisdiction of Rincon, Georgia.

Sec. 90-326-. - Basis for area of special flood hazard.

The areas of special flood hazard identified by the Federal Emergency Management Agency in its flood insurance study (FIS), dated March 16, 2015, with accompanying maps and other supporting data and any revision thereto, are adopted by reference and declared a part of this Chapter.

Sec. 90-327. - Establishment of development permit.

A development permit shall be required in conformance with the provisions of UDO prior to the commencement of any development activities. See the land development permit section of the UDO.

Sec. 90-328 - Compliance.

No structure or land shall hereafter be located, extended, converted or altered without full compliance with the terms of the UDO and other applicable regulations.

Sec. 90-329. - Abrogation and greater restrictions.

This Chapter is not intended to repeal, abrogate, or impair any existing ordinance, easements, covenants, or deed restrictions. However, where this Chapter and another conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

Sec. 90-330. - Interpretation.

In the interpretation and application of this Chapter all provisions shall be: (1) considered as minimum requirements; (2) liberally construed in favor of the governing body, and; (3) deemed neither to limit nor repeal any other powers granted under state statutes.

Sec. 90-331. - Warning and disclaimer of liability.

The degree of flood protection required by this Chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur; flood heights may be increased by man-made or natural causes. This Chapter does not imply that land outside the areas of special flood hazard or uses permitted within such areas will be free from flooding or flood damages. This Chapter shall not create liability on the part of Rincon, Georgia, or by any officer or employee thereof for any flood damages that result from reliance on this Chapter or any administrative decision lawfully made hereunder.

Sec. 90-332. - Penalties for violation.

Failure to comply with the provisions of this Chapter or with any of its requirements, including conditions and safeguards established in connection with grants of variance or special exceptions shall constitute a violation. Any person who violates this Chapter or fails to comply with any of its requirements shall be subject to the penalties as outlined in section 1-11 of the City of Rincon Code of Ordinances. Violators shall pay all costs and expenses involved in the case. Each day such violation continues shall be considered a

separate offense. Nothing herein contained shall prevent the City of Rincon from taking such other lawful actions as is necessary to prevent or remedy any violation.

Sec. 90-333. - Permit procedures.

Application for a development permit in a floodplain shall be made to the City Manager or designee on forms furnished by the community prior to any development activities, and may include, but not be limited to the following: plans in duplicate drawn to scale showing the elevations of the area in question and the nature, location, and dimensions, of existing or proposed structures, earthen fill placement, storage of materials or equipment, and drainage facilities.

Specifically, the following information is required:

(A) Application stage:

- (1) Elevation in relation to mean sea level (or highest adjacent grade) of the lowest floor, including basement, of all proposed structures;
- (2) Elevation in relation to mean sea level to which any non-residential structure will be floodproofed;
- (3) Design certification from a registered professional engineer or architect that any proposed nonresidential floodproofed structure will meet the floodproofing criteria of Sec. 90-336(2); and,
- (4) Description of the extent to which any watercourse will be altered or relocated as a result of a proposed development.

- (B) Construction stage: For all new construction and substantial improvements, the permit holder shall provide to the City Manager or designee an as-built certification of the regulatory floor elevation or floodproofing level immediately after the lowest floor or floodproofing is completed. Any lowest floor certification made relative to mean sea level shall be prepared by or under the direct supervision of a registered land surveyor or professional engineer and certified by same. When floodproofing is utilized for nonresidential structures, said certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same.

Any work undertaken prior to submission of these certifications shall be at the permit holder's risk.

The City Manager or designee shall review the above referenced certification data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further progressive work being allowed to proceed. Failure to submit certification or failure to make said corrections required hereby shall be cause to issue a stop-work order for the project.

Sec. 90-334. - Criteria for review.

The City Manager or designee is responsible for the following:

- (A) Review proposed development to assure that the permit requirements of this Chapter have been satisfied.

- (B) Review proposed development to assure that all necessary permits have been received from governmental agencies from which approval is required by Federal or State law, including section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334. Require that copies of such permits be provided and maintained on file.
- (C) Review all permit applications to determine whether proposed building sites will be reasonably safe from flooding.
- (D) When base flood elevation data or floodway data have not been provided in accordance with Sec. 90-326, then the City Manager or designee shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a federal, state or other sources in order to administer the provisions of division 4.
- (E) Review and record the actual elevation in relation to mean sea level (or highest adjacent grade) of the lowest floor, including basement, of all new or substantially improved structures in accordance with Sec. 90-333(2).
- (F) Review and record the actual elevation, in relation to mean sea level to which any new or substantially improved structures have been floodproofed, in accordance with Sec. 90-333.
- (G) When floodproofing is utilized for a structure, the City Manager or designee shall obtain certification of design criteria from a registered professional engineer or architect in accordance with Sec. 90-333 and Section 336(2) or (4).
- (H) Make substantial damage determinations following a flood event or any other event that causes damage to structures in flood hazard areas.
- (I) Notify adjacent communities and the Georgia Department of Natural Resources prior to any alteration or relocation of a watercourse and submit evidence of such notification to the Federal Emergency Management Agency (FEMA).
- (J) For any altered or relocated watercourse, submit engineering data/analysis within six months to the FEMA to ensure accuracy of community flood maps through the letter of map revision process. Assure flood carrying capacity of any altered or relocated watercourse is maintained.
- (K) Where interpretation is needed as to the exact location of boundaries of the areas of special flood hazard (for example, where there appears to be a conflict between a mapped boundary and actual field conditions) the City Manager or designee shall make the necessary interpretation. Any person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this Chapter.
- (L) All records pertaining to the provisions of this Chapter shall be maintained in the Planning and Development Department and shall be open for public inspection.

Sec. 90-335. - General standards.

In all areas of special flood hazard the following provisions are required:

- (A) New construction and substantial improvements of existing structures shall be anchored to prevent flotation, collapse or lateral movement of the structure;
- (B) New construction and substantial improvements of existing structures shall be constructed with materials and utility equipment resistant to flood damage;
- (C) New construction or substantial improvements of existing structures shall be constructed by methods and practices that minimize flood damage;
- (D) Elevated buildings—All new construction or substantial improvements of existing structures that include any fully enclosed area located below the lowest floor formed by foundation and other exterior walls shall be designed so as to be an unfinished or flood resistant enclosure. The enclosure shall be designed to equalize hydrostatic flood forces on exterior walls by allowing for the automatic entry and exit of floodwater.
 - (1) Designs for complying with this requirement must either be certified by a professional engineer or architect or meet the following minimum criteria:
 - (i) Provide a minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;
 - (ii) The bottom of all openings shall be no higher than one foot above grade; and,
 - (iii) Openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwater in both direction.
 - (2) So as not to violate the lowest floor criteria of this Chapter, the unfinished or flood resistant enclosure shall only be used for parking of vehicles, limited storage of maintenance equipment used in connection with the premises, or entry to the elevated area; and
 - (3) The interior portion of such enclosed area shall not be partitioned or finished into separate rooms.
- (E) All heating and air conditioning equipment and components (including ductwork), all electrical, ventilation, plumbing, and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;
- (F) Manufactured homes shall be anchored to prevent flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This standard shall be in addition to and consistent with applicable State requirements for resisting wind forces;
- (G) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;

- (H) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters;
- (I) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding; and,
- (J) Any alteration, repair, reconstruction or improvement to a structure, which is not compliant with the provisions of this Chapter, shall be undertaken only if the non- conformity is not furthered, extended or replaced.

Sec. 90-336. - Specific standards.

In all areas of special flood hazard the following provisions are required:

- (1) *New construction and/or substantial improvements* —Where base flood elevation data are available, new construction and/or substantial improvement of any structure or manufactured home shall have the lowest floor, including basement, elevated no lower than one foot above the base flood elevation. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate equalization of flood hydrostatic forces on both sides of exterior walls shall be provided in accordance with standards of Sec. 90-335(D), elevated buildings.
 - a. All heating and air conditioning equipment and components (including ductwork), all electrical, ventilation, plumbing, and other service facilities shall be elevated at or above one foot above the base flood elevation.
- (2) *Nonresidential construction* —New construction and/or the substantial improvement of any structure located in A1-30, AE, or AH zones, may be floodproofed in lieu of elevation. The structure, together with attendant utility and sanitary facilities, must be designed to be water tight to one foot above the base flood elevation, with walls substantially impermeable to the passage of water, and structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. A registered professional engineer or architect shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions above, and shall provide such certification to the official as set forth above and Sec. 90-334(F).
- (3) *Standards for manufactured homes and recreational vehicles* —Where base flood elevation data are available:
 - a. All manufactured homes placed and/or substantially improved on: (1) individual lots or parcels, (2) in new and/or substantially improved manufactured home parks or subdivisions, (3) in expansions to existing manufactured home parks or subdivisions, or (4) on a site in an existing manufactured home park or subdivision where a manufactured home has incurred substantial damage as the result of a flood, must have the lowest floor including basement, elevated no lower than one foot above the base flood elevation.

- b. Manufactured homes placed and/or substantially improved in an existing manufactured home park or subdivision may be elevated so that either:
 - (i) The lowest floor of the manufactured home is elevated no lower than one foot above the level of the base flood elevation, or
 - (ii) The manufactured home chassis is elevated and supported by reinforced piers (or other foundation elements of at least an equivalent strength) of no less than 36 inches in height above grade.
 - c. All manufactured homes must be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement. (Ref. Sec. 90-335(F) above.)
 - d. All recreational vehicles placed on sites must either:
 - (i) Be on the site for fewer than 180 consecutive days,
 - (ii) Be fully licensed and ready for highway use, (a recreational vehicle is ready for highway use if it is licensed, on its wheels or jacking system, attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached structures or additions), or
 - (iii) The recreational vehicle must meet all the requirements for new construction, including the anchoring and elevation requirements of Sec. 90-336(3)(a)—(c), above.
- (4) *Floodway* —Located within areas of special flood hazard established in Sec. 90-326, are areas designated as floodway. A floodway may be an extremely hazardous area due to velocity floodwaters, debris or erosion potential. In addition, the area must remain free of encroachment in order to allow for the discharge of the base flood without increased flood heights. Therefore, the following provisions shall apply:
- a. Encroachments are prohibited, including earthen fill, new construction, substantial improvements or other development within the regulatory floodway. Development may be permitted however, provided it is demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the encroachment shall not result in any increase in flood levels or floodway widths during a base flood discharge. A registered professional engineer must provide supporting technical data and certification thereof.
 - b. Only if Sec. 90-336(4)(a). above is satisfied, then any new construction or substantial improvement shall comply with all other applicable flood hazard reduction provisions of this Chapter.

Sec. 90-337. - Building standards for streams without established base flood elevations and/or floodway (A-zones).

Located within the areas of special flood hazard established in Sec. 90-326, where streams exist but no base flood data have been provided (A-zones), or where base flood data have been provided but a floodway has not been delineated, the following provisions apply:

- (1) When base flood elevation data or floodway data have not been provided in accordance with Sec. 90-326, then the City Manager or designee shall obtain, review, and reasonably utilize any scientific or historic base flood elevation and floodway data available from a federal, state, or other source, in order to administer the provisions of this Chapter. Only if data are not available from these sources, then the following provisions (a. and b.) shall apply:
 - a. No encroachments, including structures or fill material, shall be located within an area equal to the width of the stream or 20 feet, whichever is greater, measured from the top of the stream bank, unless certification by a registered professional engineer is provided demonstrating that such encroachment shall not result in more than a one foot increase in flood levels during the occurrence of the base flood discharge.
 - b. In special flood hazard areas without base flood elevation data, new construction and substantial improvements of existing structures shall have the lowest floor of the lowest enclosed area (including basement) elevated no less than three feet above the highest adjacent grade at the building site. (Note: Require the lowest floor to be elevated one foot above the estimated base flood elevation in A-zone areas where a limited detail study has been completed.) Openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided in accordance with standards of Sec. 90-335(D), elevated buildings.
 - (i) All heating and air conditioning equipment and components (including ductwork), all electrical, ventilation, plumbing, and other service facilities shall be elevated no less than three feet above the highest adjacent grade at the building site.

The City Manager or designee shall certify the lowest floor elevation level and the record shall become a permanent part of the permit file.

Sec. 90-338. - Standards for areas of special flood hazard (AE zones) with established base flood elevations without designated floodways.

Located within the areas of special flood hazard established in Sec. 90-326, where streams with base flood elevations are provided but no floodways have been designated, (zones AE) the following provisions apply:

- (1) No encroachments, including fill material, new structures or substantial improvements shall be located within areas of special flood hazard, unless certification by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community. The engineering certification should be supported by technical data that conforms to standard hydraulic engineering principles.
- (2) New construction or substantial improvements of buildings shall be elevated or floodproofed to elevations established in accordance with Sec. 90-336.

Sec. 90-339. - Standards for areas of shallow flooding (AO zones).

Areas of special flood hazard established in Sec. 90-326, may include designated AO shallow flooding areas. These areas have base flood depths of one to three feet above ground, with no clearly defined channel. The following provisions apply:

- (1) All new construction and substantial improvements of residential and nonresidential structures shall have the lowest floor, including basement, elevated to the flood depth number specified on the flood insurance rate map (FIRM), above the highest adjacent grade. If no flood depth number is specified, the lowest floor, including basement, shall be elevated at least three feet above the highest adjacent grade. Openings sufficient to facilitate the unimpeded movements of flood waters shall be provided in accordance with standards of Sec. 90-335(D), elevated buildings.

The City Manager or designee shall certify the lowest floor elevation level and the record shall become a permanent part of the permit file.

- (2) New construction or the substantial improvement of a non-residential structure may be floodproofed in lieu of elevation. The structure, together with attendant utility and sanitary facilities, must be designed to be water tight to the specified FIRM flood level plus one foot, above highest adjacent grade, with walls substantially impermeable to the passage of water, and structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. A registered professional engineer or architect shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions above, and shall provide such certification to the official as set forth above and as required in Sec. 90-333(A)(3) and (B).
- (3) Drainage paths shall be provided to guide floodwater around and away from any proposed structure.

Sec. 90-340. - Standards for subdivisions and/or development proposals.

- (1) All subdivision and/or development proposals shall be consistent with the need to minimize flood damage, and shall be reasonably safe from flooding;
- (2) All subdivision and/or development proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage;
- (3) All subdivision and/or development proposals shall have adequate drainage provided to reduce exposure to flood hazards; and
- (4) For subdivisions and/or developments, as of December 17, 2010, greater than 50 lots or five acres, whichever is less, base flood elevation data shall be provided for subdivisions and all other proposed developments, including manufactured home parks and subdivisions. Any changes or revisions to the flood data adopted herein and shown on the FIRM shall be submitted to FEMA for review as a conditional letter of map revision (CLOMR) or conditional letter of map amendment (CLOMA), whichever is applicable. Upon completion of the project, the developer is responsible for submitting the as-built data to FEMA in order to obtain the final LOMR.

Sec. 90-3411. - Standards for critical facilities.

- (a) Critical facilities shall not be located in the 100-year floodplain or the 500-year floodplain.
- (b) All ingress and egress from any critical facility must be protected to the 500-year flood elevation.

Sec. 90-342. – Floodplain Variances.

- (a) The Planning and Zoning Board as established by the City of Rincon shall hear and make recommendations, to Mayor and City Council, for variances from the requirements of this Chapter.
- (b) The Planning and Zoning Board shall hear and make recommendations, to Mayor and City Council, for appeals when it is alleged an error in any requirement, decision, or determination is made by the City Manager or designee in the enforcement or administration of this Chapter.
- (c) Any person aggrieved by the decision of the mayor and city council may appeal such decision to the Superior Court of Effingham County as provided in O.C.G.A § 5-4-1.
- (d) Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum to preserve the historic character and design of the structure.
- (e) Variances may be issued for development necessary for the conduct of a functionally dependent use, provided the criteria of this Chapter are met, no reasonable alternative exists, and the development is protected by methods that minimize flood damage during the base flood and create no additional threats to public safety.
- (f) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- (g) In reviewing such requests, the Planning and Zoning Board, and Mayor and City Council, shall consider all technical evaluations, relevant factors, and all standards specified in this and other sections of the UDO.
- (h) Conditions for variances.
 - (1) A variance shall be issued only when there is:
 - i. A finding of good and sufficient cause;
 - ii. A determination that failure to grant the variance would result in exceptional hardship; and
 - iii. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
 - (2) The provisions of this Chapter are minimum standards for flood loss reduction; therefore any deviation from the standards must be weighed carefully. Variances shall only be issued upon a determination that the variance is the minimum

necessary, considering the flood hazard, to afford relief; and, in the instance of a historic structure, a determination that the variance is the minimum necessary so as not to destroy the historic character and design of the building.

- (3) Any applicant to whom a variance is granted shall be given written notice specifying the difference between the base flood elevation and the elevation of the proposed lowest floor and stating that the cost of flood insurance will be commensurate with the increased risk to life and property resulting from the reduced lowest floor elevation.
- (4) The City Manager or designee shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency upon request.
 - (i) Upon consideration of the factors listed above and the purposes of this Chapter, the Mayor and City Council may attach such conditions to the granting of variances as it deems necessary to further the purposes of the UDO.

Sec. 90-343. - Open air burning; burning of leaves; burning in ditches.

No person shall cause, suffer, allow or permit open burning of refuse, or conduct a salvage operation by open burning, except that persons may burn leaves collected within the boundaries of the lot upon which the leaves are being burned. No leaves shall be collected or burned in drainage ditches.

Sec. 90-344. - Permitting oil or similar material to flow into street or drainage ditch.

- (a) It shall be unlawful for any person to cause or permit petroleum products, coal oil or any other oil or lubricating fluid to fall or flow on, over or into any street or drainage ditch within the corporate limits of the city.
- (b) Any person using, handling or otherwise dealing in petroleum products, coal oil or any other oil or lubricating fluid shall provide adequate traps to catch and eliminate such products before disposing of any such waste.

Sec. 90-345. - Obstruction.

It shall be unlawful for any person to obstruct, block, divert or otherwise interfere with the flow of water within the drainage ditches and roadside ditches in the corporate limits of the city.

Severability. If any section, clause, sentence or phrase of this ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way effect the validity of the remaining portions of this ordinance.

Effective Date. This ordinance shall become effective immediately upon its adoption by the City Council.

Repeal. All ordinances and parts of ordinances in conflict with this ordinance are hereby repealed.

SO ORDAINED this 12 day of November 2024.

CITY OF RINCON

ATTEST: Dulcia King
Dulcia King, City Clerk

Kevin Exley
Kevin Exley Mayor

