

STATE OF GEORGIA

CITY OF RINCON

ORDINANCE

AN ORDINANCE TO AMEND CHAPTER 90, ZONING AND GROWTH MANAGEMENT, ARTICLE II, ADMINISTRATION, SECTIONS 90-21 THROUGH 90-40, PLANNING AND ZONING BOARD OF THE RINCON CODE OF ORDINANCES; AND TO REPEAL ALL ORDINANCES IN CONFLICT HEREWITH; TO PROVIDE FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

WHEREAS, the City of Rincon Charter, specifically Chapter 90, Article XIII, Section 90-334.F establishes out the requirements for changing the zoning ordinance; and

WHEREAS, the Planning and Zoning Board adopted Rules of Procedure earlier this year to provide clarity and consistency, fairness and transparency, efficiency and accountability and enhance the overall professionalism of the Board; and

WHEREAS, in drafting the Rules of Procedure, staff identified areas of the ordinance that needed to be amended to both avoid duplication with the Rules and to update outdated language; and

WHEREAS, the Planning and Zoning Board met on October 17, 2023 and discussed the proposed amendments to the Planning and Zoning Board language and voted 4-0 to recommend approval of the amendments; and

WHEREAS, City Council held a public hearing on the proposed fence regulations on October 23, 2023 and suggested additional changes; and

WHEREAS, on November 13, 2023, City Council gave first reading approval to the proposed Planning and Zoning Board amendments with a vote of 6-0; and

WHEREAS, Mayor and Council find that it is in the best interest of the City of Rincon, Georgia to amend the Planning and Zoning Board language; and

BE IT ESTABLISHED by the Mayor and Council of the City of Rincon, Georgia, and it is hereby ordained by the authority thereof that:

The Mayor and Council of the City of Rincon, Georgia, hereby approves and adopts by the authority thereof the following amendments to Chapter 90, Zoning and Growth Management, Article II, Administration, Sections 90-21 through 90-40, Planning and Zoning Board:

Sec. 90-21. - Planning and Zoning Board.

The Planning and Zoning Board shall be a combined advisory and administrative agency of the city which is appointed by the Mayor and City Council, and which shall have the following described duties and responsibilities:

- (A) Conducting research and analyses of existing and future probable economic, social and physical conditions bearing on the growth and development of the city;
- (B) Preparing and recommending to the Mayor and City Council public objectives, policies, procedures and plans for city growth management;
- (C) Evaluating each matter of public concern referred to the Board by the Mayor and City Council and development alternative recommendations for action;
- (D) Generally interpreting and administering this chapter, when such interpretation does not conflict with any opinion rendered by the City Attorney, and when such administration does not encroach upon the advisory, administrative or legislative jurisdiction or authority delegated and reserved by this chapter to Mayor, City Council, or any other City, County, State or Federal Official or Agency possessing proper jurisdiction in any manner;
- (E) Evaluating and rendering administrative recommendations of approval or disapproval on each Zoning, Land Development Plan, Land Subdivision Master Plan, and Land Subdivision Plat presented to the Board by any qualified applicant to City Council;
- (F) Rendering formal administrative recommendations of approval or disapproval on each petition or appeal presented to the Board by any qualified applicant or petitioner to City Council; and
- (G) Conducting all public meetings ~~and hearings~~ required by this chapter or by any City, County, State or Federal Law or Regulation governing the proper transaction of official business and other public matters within the jurisdiction of the Commission.

Sec. 90-22. - ~~Appointment of board members.~~ Membership.

- (A) The Board shall comprise ~~of not less than four members nor more than seven Rincon property owners;~~ members to be appointed ; ~~each appointed or reappointed for a term of three years by City Council.~~
- (B) Board members shall serve at the pleasure of City Council for a whole-year term of three years. Board members may be reappointed for one three-year term. Terms shall be staggered in time so as to provide continuity.

~~Each new or reappointed member's term shall be set to "overlap" the terms of other members, to assure continuity of operations and to assure total membership is not less than seven members at any time.~~

- (C) ~~The terms of the members of the Planning and Zoning Board shall be for three years. The Planning and Zoning Board seats shall be designated as seats 1—7. Planning and Zoning board seats 1—4 were appointed during January of 2010 and will expire on December 31, 2012, at which time seats 1—4 shall be up for appointment. Planning and Zoning Board seats 5—7 were appointed during January of 2012 and will expire on December 31, 2014, at which time seats 5—~~

~~7 shall be up for appointment. Board terms as established by City Council begin January 1 and end December 31.~~

(D) New members shall promptly be appointed to fill any membership vacancies that occur for any reason and each new member's term shall be for the remainder of the unexpired term of the vacating member.

~~(E) A member of the City Council shall be appointed as an Ex-Officio member of the Board for a term not to exceed that member's remaining period of service on the City Council or the Council and Board shall meet together on a quarterly basis.~~

Sec. 90-23. – Organization and procedural rules governing the ~~Establishment of P~~lanning and ~~Z~~oning ~~B~~oard organization.

(A) The Board shall elect a Chairperson and a Vice Chairperson, by simple majority of the voting members at the first meeting in January of each year, ~~the following officers: The Board shall appoint a secretary who may be an employee of the City.~~

~~(1) Chairperson – The Chairperson shall act as Presiding Officer during official deliberations of planning matters and shall act as Hearing Officer for each appeal and public hearing presented to the Commission.~~

~~(2) Vice Chairperson – The Vice Chairperson shall fulfill all duties of the Chairperson during the Chairperson's absence.~~

~~(3) Secretary – The Secretary shall serve the Commission during all official deliberations of planning matters and appeals.~~

(B) ~~The Board may re-elect any member to the office of Chairperson, Vice Chairperson or Secretary for any succeeding number of terms.~~ The Board shall adopt rules of organizational procedure and shall keep a record of its resolutions, findings, and determinations, which record must be a public record.

~~(C) A member of the City Council shall be appointed as an Ex-Officio member of the Board for a term not to exceed that member's remaining period of service on the City Council.~~

Sec. 90-24. - Disclosure of conflict of interest.

(A) Any member of the Board who has any property interest or financial interest, or who has a family member who holds such interest, in any real property which is the subject of any application, petition, appeal or other matter under official consideration by the Council or Board, shall immediately provide public disclosure of such interest to the Board;

(B) Any person who is an applicant or petitioner for any application, petition, appeal or other matter under official consideration by the Council or the Board, who has within the preceding two years made any political campaign contributions or gifts totaling more than \$100.01 to any member of the Council or Board, must immediately provide public disclosure of such contributions or gifts to the Council to be recorded in the minutes of the public meeting;

(C) All disclosures of any conflict of interest described in this chapter shall be a public record; and

(D) Any deliberate failure to disclose any conflict of interest described in the ordinance shall be a violation of this chapter and may be a violation of Georgia Law; violation of either provision is a misdemeanor and upon conviction for such public offense shall be punishable as provided by law.

Sec. 90-25. - City services and support.

- (A) It shall be the responsibility of the Mayor and Council to provide the Board with a meeting room of sufficient size to accommodate all public meetings which this chapter requires of the Board; and
- (B) It shall be the responsibility of the Mayor and Council to provide the Board with clerical staff, office supplies and a cash expense allowance for the purchase of maps, document printing and related items.

~~Sec. 90-24. Quorum.~~

~~The Board shall not meet to officially transact business unless a quorum of four members is present, but any number of members may meet at a "work session", to unofficially analyze and discuss any matter before the commission, provided no member expresses any intention of official actions and no vote is taken.~~

~~Sec. 90-25. Meeting.~~

~~The Board shall set the meeting schedule in January of each year and can meet as often as it determines necessary.~~

~~Sec. 90-26. Special or called meeting.~~

- ~~(A) The Board may have a special or called meeting as requested by:~~

~~City Manager;~~

~~Mayor;~~

~~Majority vote of City Council;~~

~~Majority vote of Planning and Zoning Board.~~

- ~~(B) All scheduled special or called meetings shall comply with the State of Georgia's Open Meeting Laws. The public notice will be placed on the front of City Hall and all Planning and Appeals Members notified by the most expedient method. If possible, a legal announcement should be placed in the local newspaper.~~

~~Sec. 90-27. Rules governing meetings.~~

- ~~(A) The Board has adopted "Robert's Rules of Order" to govern the conduct of official meeting, except as noted below;~~
- ~~(B) Voting on any official action may be by a roll call vote and such vote shall be recorded in the minutes. The affirmative vote of the majority of members voting shall be required for the adoption of any official action. Any member that abstains from voting shall not be considered as a voting member when determining majority voting. The presiding officer shall vote on all matters.~~
- ~~(C) Meetings of the Board need not be conducted with strict formality, but each Board member, applicant, petitioner or other person who offers testimony or comments for the record shall be identified and shall state their interest or reason for participating in the meeting discussions;~~
- ~~(D) Each official meeting of the Board shall be conducted with an agenda, excluding for administrative matters, the agenda shall be closed and made available for public scrutiny not less than five business days immediately preceding the date of the meeting and during the meeting;~~
- ~~(E) The Chairperson or Vice Chairperson shall preside over all portions of the meeting, maintaining decorum and may limit or prohibit irrelevant, disruptive, repetitive, or unnecessary testimony or comments from any applicant, petitioner or other person attending the meeting. At the request of a~~

majority of the Board, the Board may ask the City Attorney to appear as Hearing Officer for specific items or issues;

~~(F) The Hearing Officer shall preside over the appeals part of each Board meeting agenda and shall convene, conduct and adjourn that portion of the meeting;~~

~~(G) The Hearing Officer shall be empowered to request subpoenas to compel the attendance of witnesses and may require testimony given under oath; and~~

Sec. 90-~~2628~~. - Deliberations.

The ~~Board Commission~~ shall formally deliberate upon, evaluate, and make recommendations to City Council on the following specified appeals or petitions filed by any aggrieved person or any qualified applicant or petitioner:

- (A) An appeal alleging an error, and a formal request for review of and decision on the substantive or procedural correctness of any official order, requirement, interpretation, determination or decision made by the City Planner which was adverse to the petitioner;
- (B) An appeal from an official interpretation and determination by the City Planner that a proposed non-referenced use is not similar to others in the land use zoning district(s) in which it is proposed to be located and that such use should not be added as an "allowable use" to the List of Allowable or Prohibited Uses governing the district(s);
- (C) A petition for a variance and grant of "administrative relief" from specified requirements, standards, terms or conditions of this chapter—which cannot include any authorization to establish any prohibited use nor any exemption from payment of any required City service fee—which may be granted by the Commission when all ordinance provisions cannot be strictly applied to the use or development of a particular land parcel because:
 - a. Uncommon circumstances of the property such as size, shape, topography or other features effectively prevent full compliance with the ordinance; and
 - b. Compliance with all ordinance would impose special and unnecessary hardships upon the property owner; or
 - c. Compliance with all ordinance requirements would prevent any reasonable use of the subject property; or
 - d. A variance or grant of "administrative relief" from any terms and conditions of this chapter—which cannot include any authorization to establish any prohibited use or any exemption from payment of any required City service fee—will not constitute a special privilege inconsistent with the limitations imposed upon other properties in the vicinity and in the same land use zoning district.
- (D) A petition for authorization to establish a conditional use referenced in the List of Allowable or Prohibited Uses of this chapter.

Sec. 90-~~2729~~. - Authority.

The Planning and Zoning Board has the authority to make recommendations on any appeal that may reverse or affirm or modify, in whole or in part, any official order, requirement, interpretation, determination or decision by the City Planner that is the subject of the appeal. The decisions of the Planning and Zoning Board are solely for recommendations to City Council. City Council will make the final decision on all variance, zoning, and land development issues.

Sec. 90-30. ~~Public meetings and hearings.~~

- ~~(A) A public meeting shall be required for each application for official evaluation of every Land Development Plan, Land Subdivision Plat and Land Subdivision Masterplan heard by the Board and for the transaction of any other official business;~~
- ~~(B) A public meeting shall be required for each petition for an amendment to any text, table, list of standards, numerical requirement, or to the Official Land Use Zoning and Roadway Classification Map, or to the List of Uses Allowable or prohibited in land use zoning districts, or for a request for authorization to establish a conditional use, or for any zoning matters, petition for variance, or for any appeal heard by the Board;~~
- ~~(C) Each public meeting must be advertised, must meet all requirements of the "Georgia Open Meetings Act", and must comply with all other requirements for such hearings as described in this chapter; and~~
- ~~(D) Public meeting shall not be required for any "work session" held to unofficially analyze and discuss any matter before the Board, provided no member expresses any intention of official action and no vote is taken.~~

~~Sec. 90-31. City services and support.~~

- ~~(A) It shall be the responsibility of the Mayor and Council to provide the Board with a meeting room of sufficient size to accommodate all public meetings which this chapter requires of the Board; and~~
- ~~(B) It shall be the responsibility of the Mayor and Council to provide the Board with clerical staff, office supplies and a cash expense allowance for the purchase of maps, document printing and related items.~~

~~Sec. 90-32. Records.~~

- ~~(A) The Building and Zoning Department shall prepare and keep accurate public records and minutes of each meeting of the Commission;~~
- ~~(B) The Building and Zoning Department shall provide copies of the minutes of each meeting promptly to the City Manager, Mayor and City Council;~~
- ~~(C) The Board shall approve their minutes of any public meeting regarding any application, appeal zoning request, petition or other matters; and~~
- ~~(D) All approved records and minutes of the Board shall be available for public reference in the City Hall during regular hours.~~

~~Sec. 90-33. Disclosure of conflict of interest.~~

- ~~(A) Any member of the Board who has any property interest or financial interest, or who has a family member who holds such interest, in any real property which is the subject of any application, petition, appeal or other matter under official consideration by the Council or Board, shall immediately provide public disclosure of such interest to the Board;~~
- ~~(B) Any person who is an applicant or petitioner for any application, petition, appeal or other matter under official consideration by the Council or the Board, who has within the preceding two years made any political campaign contributions or gifts totaling more than \$100.01 to any member of the Council or Board, must immediately provide public disclosure of such contributions or gifts to the Council to be recorded in the minutes of the public meeting;~~
- ~~(C) All disclosures of any conflict of interest described in this chapter shall be a public record; and~~
- ~~(D) Any deliberate failure to disclose any conflict of interest described in the ordinance shall be a violation of this chapter and may be a violation of Georgia Law; violation of either provision is a misdemeanor and upon conviction for such public offense shall be punishable as provided by law.~~

Sec. 90-34. Official administrative duties, responsibilities and authority limited.

The administrative duties, responsibilities and authority of the various agencies and officials which have been granted by or recognized by this chapter shall be limited by the following sections:

- (A) *Limitations of administrative powers established.* The administrative duties, responsibilities and authority of all City officials and their employees, designees, appointees, independent contractors and consultants who may be required to review and to evaluate the various applications, appeals, plans, plats, drawings and specifications submitted by qualified applicants or petitioners respecting activities governed by this chapter, or who are required to administer and to enforce the terms and conditions of this chapter, shall be restricted to the minimum extent necessary for the proper administrative conduct of this chapter, when such administrative duties, responsibilities and authority are not otherwise granted by the City Charter, by the State Constitution, or by any other State or Federal Statute, Rule or Regulation.
- (B) *Fairness and impartiality required.* All City officials and others as designated in this chapter one who may be required to review and to evaluate the various appeals, applications, plats, plans, drawings and specifications submitted by qualified applicants or petitioners respecting activities governed by this chapter, or who are required to administer and to enforce the terms and conditions of this chapter, shall constantly endeavor to exercise good judgment necessary to assure fair, impartial, and technically competent administration of this chapter, and shall:
- (1) Continually strive to safeguard against or effectively prevent, arbitrary, capricious and discriminatory actions, rulings or decisions by any City official, employee, designee, appointee, independent contractor or consultant respecting any activities governed by this chapter; and
 - (2) Continually strive to protect and preserve the basic constitutional guarantees and private property rights of each land owner or land user in the City, by constantly endeavoring to assure this chapter respects and provides:
 - a. Substantive due process (relating to the "who, where and how much" provisions of the ordinance) by establishing a reasonable tendency of Code provisions to promote legitimate public purposes and by establishing substantial relationships between ordinance provisions and the public health, safety, morality or general welfare;
 - b. Procedural due process (relating to "when, how and proper notice" provisions of the ordinance) by requiring adequate standards and fairness of application of those standards, and by prohibiting arbitrary, prejudicial and capricious actions by administrative officials;
 - c. Equal protection of the law, by recognizing different classes of property or land uses or land development may be treated differently, but by establishing reasonable distinctions between such classes and by prohibiting arbitrary or discriminatory official actions in respect to those distinctions;
 - d. Protection from unlawful taking, by prohibiting public acquisition and use of private property without adequate consideration or compensation to the property owner, and by providing "administrative relief" procedures to prevent Ordinance requirements from completely depriving property owners of the use of land or buildings that can not or do not comply with Ordinance requirements;
 - e. Protection from infringement of the right to travel, by omitting regulations that unreasonably restrict "mobility" (such as regulations that would limit the number of persons who may move into the City; and

~~f. A clear relationship of the ordinance to its legal bases in other City Ordinances, resolutions and rules, to State "home rule" laws and to all other relevant State or Federal laws, rules and regulations.~~

~~(3) Protect and preserve private property rights, while recognizing the public right of protection from nuisances, from hazardous uses and from unsightly or unsuitable land development that may diminish the value or usefulness of adjacent properties and the neighborhood or vicinity.~~

Sec. 90-~~28~~35. - Interpretation of land use zoning district boundaries.

The Planning and Zoning Board shall be authorized to make recommendations to City Council to resolve any dispute regarding the location of any land use zoning district boundary and interpretations of any district boundary location upon an appeal by a qualified applicant or petitioner or aggrieved person, or by its own initiative, or by request from the City Planner, or the Mayor and Council.

Sec. 90-~~29~~36. - Appeals from ordinance administration.

Any qualified applicant or aggrieved person who alleges an official error in the administration of this chapter or who alleges loss of a real property right, or whose legal right in or to any real property has allegedly been invaded, or whose monetary interest has allegedly been otherwise adversely affected by any official order, requirement, interpretation, determination or decision by the City Planner, may file an appeal to City Council.

Sec. 90-~~30~~37. - Petitions to establish conditional use.

Any qualified applicant may file a petition to the Planning and Zoning Board for authorization to establish a conditional use referenced in the List of Allowable or Prohibited Uses in this chapter, Article VI, but only if such use complies with all the requirements of this chapter and with all other applicable City, County, State and Federal Requirements. Any action taken by the Planning and Zoning Board will serve as a recommendation to City Council, which shall make the final decision on the request.

Sec. 90-~~31~~38. - Amendment procedures.

Any qualified applicant may file a petition for amendment of any text or table or list of standards or numerical standard requirement, for amendment of the Official Land Use Zoning and Roadway Classification Map, and/or for amendment of the List of Uses Allowable or Prohibited in land use zoning districts of this chapter.

- (A) *Official evaluation and action required:* Each Petition for ordinance amendment shall be officially evaluated and acted upon by the Planning and Zoning Board and by all other official administrative officials and agencies in the manner further prescribed in this chapter and this chapter;
- (B) *Official recommendation of approval or disapproval required:* The Planning and Zoning Board shall forward every petition for ordinance amendment to the Mayor and Council accompanied by an official recommendation of approval or disapproval which shall clearly state the effect the proposed amendment will have on all other requirements or elements of the ordinance and on all other applicable City, County, State and Federal Laws, Rules, Regulations and Requirements;
- (C) *Planning and Zoning Board not authorized to amend ordinance:* The City Planning and Zoning Board shall not be authorized to amend this chapter and no official recommendation of approval or disapproval of any petition for ordinance amendment made by the Board to the Mayor and Council shall have any legal force or effect.

Sec. 90-~~3239~~. - Public meeting and notice requirements.

- (A) *Public meetings required:* Every meeting at which official action will be taken by any elected or appointed Agency, Board or Commission of the City on any matter related to this chapter, shall be considered a public meeting;

A public meeting shall be required for each application for official evaluation of every land development plan, land subdivision plat and land subdivision masterplan heard by the Planning and Zoning Board and for the transaction of any other official Board business;

A public hearing, which shall be conducted at a City Council meeting, shall be required for each petition for an amendment to any text, table, list of standards, numerical requirement, or to the Official Land Use Zoning and Roadway Classification Map, or to the List of Uses Allowable or prohibited in land use zoning districts, or for a request for authorization to establish a conditional use, or for any petition for a variance, or for any appeal heard by the Planning and Zoning Board;

No official action shall be taken on any matter of public concern or effect, until after hearing comments and criticisms from attending members of the general public.

- (B) *Public notice required:* A paid advertisement, which may include a map or drawing of the subject matter, shall be placed in a newspaper of general circulation within the City to give not less than 30 ~~45~~ days nor more than 45 days notice of each public hearing scheduled to be conducted by any government body, official or agency, and shall be supplemented by:

Additional notification(s) given to other news media and by posted notices on a publicly accessible bulletin board at the principal office of the City, all of which indicate the time, place and purpose of each public meeting and public hearing; and

At least one public notice advertising sign with not less than six square feet of display area showing the time, place and purpose of each public hearing to consider amendment of the Official Land Use Zoning and Roadway Classification Map, or any appeal, shall be prominently posted on land parcels to be affected by such amendment or appeal.

- (C) *When public notice not required:* Meetings to discuss personnel matters, or the acquisition of real property, or any other matter exempted by state law, shall be exempt from compliance with the requirements of this chapter.

Sec. 90-~~3340~~. - Street names.

The Planning and Zoning Board may recommend to the Mayor and Council the change of any name of any roadway or street whenever:

- Duplicate or confusing names are discovered; or
- A change may simplify marking or identification of streets; or
- Public safety and welfare will be served by the proposed change.

The Planning and Zoning Board may in addition review speed limits on City streets and make recommendations on changes to City Council.

This ordinance shall take effect from and after the _____ day of _____, 2023.

This ordinance passed by the Mayor and Council of the City of Rincon, Georgia, this 27 day of November, 2023.

By: 
Ken Lee, Mayor

Attest: 
Dulcia King, City Clerk

Read first time: November 13, 2023

Read second time and passed: November 27, 2023