

AN ORDINANCE TO AMEND THE CODE OF THE CITY OF HOLLY SPRINGS, GEORGIA, AS AMENDED, TO CREATE ARTICLE VI. OFF-ROAD VEHICLES; SECTION 74-122. DEFINITIONS; SECTION 74-123. OPERATING RESTRICTIONS; “PERENNIAL STREAM” DEFINED; SECTION 74-124. ENFORCEMENT AND PENALTIES; CHAPTER 74 – TRAFFIC AND VEHICLES; FOR THE PUBLIC HEALTH, SAFETY AND WELFARE OF THE CITY OF HOLLY SPRINGS, GEORGIA; TO PROVIDE FOR SEVERABILITY; TO REPEAL CONFLICTING ORDINANCES; TO PROVIDE AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

The Council of the City of Holly Springs hereby ordains that:

Section 1. That Article VI. Off-Road Vehicles of Chapter 74 – Traffic and Vehicles of the Code of the City of Holly Springs, Georgia, as amended, is further hereby created as follows:

“Article VI. Off-Road Vehicles

***State law reference:** “Off-road vehicle” defined, O.C.G.A. § 40-7-3; Operating restrictions; “perennial stream” defined, O.C.G.A. § 40-7-4; Enforcement and penalties, O.C.G.A. § 40-7-6.

Sec. 74-122. Definitions.

"Off-road vehicle" means any motorized vehicle designed for or capable of cross-country travel on or immediately over land, water, snow, ice, marsh, swampland, or other natural terrain and not intended for use predominantly on public roads. It includes, but is not limited to, four-wheel drive or low-pressure tire vehicles, two-wheel vehicles, amphibious machines, ground effect or air cushion vehicles, and any other means of transportation deriving power from any source other than muscle or wind, except that such term shall exclude any motorboat; any military, fire, law enforcement, or other government vehicle being used for official purposes; any vehicles used exclusively on airports; all farm machinery, farm tractors, and other vehicles used exclusively for agricultural purposes; any self-propelled equipment for harvesting and transportation of forest products, for clearing land for planting, for utility services and maintenance, for earth moving, construction, or mining; and self-propelled lawnmowers, snowblowers, garden or lawn tractors, or golf carts, while such vehicles are being used exclusively for their designed purposes.”

Sec. 74-123. Operating restrictions; “perennial stream” defined

Any person operating an off-road vehicle under any of the following conditions shall be deemed to be in violation of this chapter and subject to the penalties provided in this chapter:

- 1) Without operative brakes or without mufflers or other silencing equipment;
- 2) On any private property without the express written permission of the owner of the property or his or her agent; or

- 3) Within any perennial stream, except when directly crossing such stream. As used in this paragraph, the term “perennial stream” means a stream:
- (A) That under normal circumstances has water flowing year round;
 - (B) That has the channel located below the ground-water table most of the year;
 - (C) For which ground water is the primary source of water; and
 - (D) For which runoff from rainfall is a supplemental source of water flow.”

Sec. 74-124. Enforcement and penalties.

All peace officers shall enforce the provisions of this section. Any person who violates any provision of this chapter shall not thereby be guilty of a criminal act but shall be subject to a civil penalty of not less than \$25.00.”

Section 2. If any Section, sub-section, sentence, clause, phrase or any portion of this Ordinance be declared invalid or unconstitutional by any court of competent jurisdiction or if the provisions of any part of this Ordinance as applied to any particular situation or set of circumstances shall be declared invalid or unconstitutional, such invalidity shall not be construed to affect the portions of this Ordinance not so held to be invalid. It is hereby declared to be the intent of the City Council to provide for separable and divisible parts and does hereby adopt any and all parts hereof as may not be held invalid for any reason.

Section 3. This Ordinance shall become effective immediately upon approval by the Mayor and City Council.

SO ORDAINED, this 16th day of July, 2012.

Timothy B. Downing, Mayor

Karen Norred, City Clerk
Seal: