

CITY OF STONECREST, GEORGIA

Honorable Mayor Jason Lary, Sr.

Council Member Jimmy Clanton, Jr. – District 1

Council Member Rob Turner- District 2

Council Member Jazzmin Cobble – District 3

Council Member George Turner- District 4

Council Member Diane Adoma – District 5

CITY COUNCIL MEETING AGENDA

June 6, 2018

9:00 a.m.

3120 Stonecrest Blvd. Suite 190
Stonecrest, Georgia

- I. CALL TO ORDER:** Mayor Jason Lary
- II. ROLL CALL:** Brenda James, Interim City Clerk
- III. INVOCATION:**
- IV. PLEDGE OF ALLEGIANCE:**
- V. ADOPTION OF THE CITY COUNCIL AGENDA:**
- VI. PRESENTATIONS:**
- VII. PUBLIC COMMENTS:**
- VIII. MINUTES:** Approval of Minutes of the Special Called Meeting of May 3, 2018 and City Council Meeting of May 21, 2018
- IX. AGENDA ITEMS:**
 - 1. An Ordinance Amending Chapter 27 Article IX Definitions to Define Short Term Vacation Rentals
 - 2. An Ordinance Amending Chapter 27, Article V Adding Supplemental Use Regulations for Short Tern Vacation Rentals
 - 3. An Ordinance to Amend Chapter 27, Article IV Use Table to Add Provisions for Short Term Vacation Rentals

4. An Ordinance Adopting Chapter 18 Nuisances
5. An Ordinance Amending Chapter 15 Business Licenses to add Articles VII, XI, XIII and IVII
6. Ordinance to Amend Section 2.15(a) of Article II of the City Charter
7. Amendment to the Intergovernmental Agreement for the HOST /EHOST

X. CITY MANAGER COMMENTS:

XI. CITY ATTORNEY COMMENTS:

XII. MAYOR AND COUNCIL COMMENTS:

XIII. ADJOURNMENT:

XIV. EXECUTIVE SESSION:

WHEN AN EXECUTIVE SESSION IS REQUIRED, ONE WILL BE CALLED FOR THE FOLLOWING ISSUES: 1) PERSONNEL, 2) LITIGATION, 3) REAL ESTATE

CITY OF STONECREST, GEORGIA

Honorable Mayor Jason Lary, Sr.

Council Member Jimmy Clanton, Jr. – District 1

Council Member Rob Turner- District 2

Council Member Jazzmin Cobble – District 3

Council Member George Turner- District 4

Council Member Diane Adoma – District 5

SPECIAL CALLED MINUTES

May 3, 2018

10:00 a.m.

Stonecrest City Hall
3120 Stonecrest Blvd.
Stonecrest, Georgia

I. CALL TO ORDER: Mayor Lary called the meeting to order.

Council Member Adoma asked if proper notice was given to the public for the meeting and is there proof. She further said under the Sunshine Law the meeting must be posted within 24 hours and there is no proof that the meeting was posted within 24 hours. She further inquired did anyone see the clerk post the meeting.

City Manager Michael Harris said he spoke with the City Clerk and she said the notice was posted prior to 10:00am and emailed out around 9:35 to all including newspapers. He further stated the open meeting laws regarding special called meetings and said his understanding is that all the provisions were met.

The City Attorney, Selena Nowell stated there is also a provision 50-14-1-3 to hold meetings under special circumstances and since there was not a quorum at the previous meeting and the announcement was made at the meeting it could fall under that provision.

Council Member Adoma said it is still her opinion that proper notice was not given.

Council Member Cobble said the backup paperwork was sent at 1:30 and the agenda was sent at 9:35a.m. She further said this type of proof has never been requested before.

Council Member Adoma said for the record she is not sure this is a legal meeting.

Council Member George Turner asked the Acting City Clerk, Lean Rodriquez if she saw the Clerk post the meeting. Ms. Rodriquez said yes, she did, the City Clerk came to her desk got the key, posted the notice and returned the key.

City Attorney Serena Nowell said under section 50-14-1-3 of the Georgia Code it is her opinion that you can have the meeting do to certain circumstances.

II. ROLL CALL: Present was Mayor Lary and Council Members George Turner, Rob Turner, Cobble, Adoma and Clanton.

III. AGENDA ITEMS:

1. SPLOST Management

Council Member Adoma made a motion to move the SPLOST Management item to the Special Called Meeting on Monday, May 7, 2018 because she is waiting for some answers regarding this matter from the City Attorney. Council Member Clanton provided the second. Council Member Cobble questioned the motion.

Council Member Adoma amended her motion to defer the SPLOST Management item to the Special Called Meeting on Monday, May 7, 2018 until the City Attorney is present with Council Member Clanton provided the second.

Council Member Rob Turner asked Attorney Nowell if she felt qualified to answer the SPLOST questions and she said no.

A vote was taken on the motion and Council Member George Turner, Rob Turner and Cobble voted no. Council Member Adoma, Clanton and Mayor Lary voted yes. **The motion failed.**

Council Member Cobble made a motion to move forward with the execution of the SPLOST Management Contract as voted unanimously by the council on August 21, 2017 to work in good faith with Grice Consulting Group, LLC to complete contract negotiations for professional services for the Comprehensive Transportation Plan, Detailed Project List and Program Management to exclude Parks and Recreation and Capital Improvements. Further the City Manager and Mayor work to identify a plan to move forward with the Parks and Recreation as well as Capital Improvement portions of the SPLOST Program. A team made up of the Assistant City Manager, Planning and Development Manager, a licensed professional engineer, future Parks and Recreation Director and future Police Chief/Public Safety Director shall represent the city during the SPLOST program.

Mayor Lary stated that the motion should be to reconsider what was voted on at the last meeting. There was discussion that these were two different motions. After much discussion Attorney Nowell said they were in fact two different motion

because the substance was difference. So, Council Member Rob Turner seconded the motion made by Council Member Cobble.

Council Member Clanton said the Attorney has just said she did not feel qualified to answer all the questions here today and it would be unfair to the citizens of Stonecrest to vote on this motion. The City Attorney said she can give advice on the procedures, but not on the substance of the contract.

George Turner says he welcomes a fresh approach and any questions to be asked have already been covered because this item has been discussed many times and he is ready to proceed.

Mayor Lary said if you cannot paint the back porch don't expect to paint the house. We have had an opportunity to work with this vendor in Pre SPLOST and they have shown him everything he needs to know.

A vote was taken on the motion with Council Members Cobble, Rob Turner and Adoma voting Yes and Council Members Clanton, George Turner and Mayor Lary voting no. **The motion failed.**

2. Leverage of Bonds

Council Member Cobble said it is not clear about the leverage of bonds. She said she wanted to get some explanation.

Attorney Nowell said the first step is for referendum, then you proceed to validation of the bonds and we are in that process now. A petition has been filed with the courts to confirm and validate the bonds and then there is a Debt Service Plan. The only thing we have now is a not to exceed amount for the bonds.

Council Member Adoma stated for wanted the following questions and statements entered into the record. "The only reason you issue bonds is that you spend the money faster than it comes in. She further said we are due to collect \$47 million over 6 years, every year has 12 months, so that is 72 months and \$47 million divided by 72 equals \$650,000 per month. She said we aren't sure what all we are going to spend it on yet so what are we spending it on? How do I get a spreadsheet with the \$650K per month revenue projected with plotted expenses on projects in the categories? How do we know if we are running a cash deficit? What is the interest rate and how much of the SPLOST is going to pay interest over 6 years? What are the total projected fees for Butler Snow? 10K vs 100K- why didn't we vet other lawyers such as Greg Worthy who I believe may live in the city"

Mayor Lary said he will take the responsibility and they need to move forward.

3. Dekalb County 2017 Road Rating Analysis Presentation

Council Members Cobble and Rob Turner inquired as to when or if the County will make a presentation on their road analysis. There was must discussion, but no decision made.

4. Second Monthly City Council Meeting

There was discussion, but no decision make.

Council Member Cobble made a motion to adjourn the meeting with Council Member Clanton providing the second. **The motion carried unanimously at 11:07a.m.**

CITY OF STONECREST, GEORGIA

Honorable Mayor Jason Lary, Sr.

Council Member Jimmy Clanton, Jr. – District 1

Council Member Rob Turner- District 2

Council Member Jazzmin Cobble – District 3

Council Member George Turner- District 4

Council Member Diane Adoma – District 5

CITY COUNCIL MEETING MNUTES

May 21, 2018

6:00 p.m.

3120 Stonecrest Blvd. Suite 190

Stonecrest, Georgia

- I. CALL TO ORDER:** Mayor Jason Lary
- II. ROLL CALL:** All members were present
- III. INVOCATION:** Council Member Rob Turner
- IV. PLEDGE OF ALLEGIANCE:**
- V. ADOPTION OF THE CITY COUNCIL AGENDA:**

Council Member George Turner requested to move item #14 Ordinance Adopting Chapter 14- Land Development to a Public Hearing.

Council Member Adoma made a motion to adopt the agenda and include the request to move item #14 Ordinance Chapter 14- Land Development to a Public Hearing. Council Member George Turner made the second. **The motion carried unanimously.**

VI. PUBLIC HEARINGS:

- 1. An Ordinance Amending Chapter 27 Article IX Definitions to Define Short Term Vacation Rentals

City Attorney Emily M. Preston gave an overview of Chapter 27 Article IX Definitions to Define Short Term Vacation Rentals.

Council Member Adoma made a motion to open the Public Hearing with Council Member Rob Turner providing the second. **The motion carried unanimously.**

In Favor

No One Spoke

Against

Faye Coffield

Council Member Rob Turner made a motion to close the Public Hearing with Council Member Adoma providing the second. **The motion carried unanimously.**

This was the first read only.

2. An Ordinance Amending Chapter 27, Article V Adding Supplemental Use Regulations for Short Term Vacation Rentals

City Attorney Emily M. Preston gave an overview of Chapter 27 Article V.

Council Member George Turner made a motion to open the Public Hearing with Council Member Adoma providing the second. **The motion carried unanimously.**

In Favor

Faye Coffield

Dave Marcus

Against

No one

Council Member George Turner made a motion to close the Public Hearing with Council Member Adoma providing the second. **The motion carried unanimously.**

This was the first read only.

3. An Ordinance to Amend Chapter 27, Article IV Use Table to Add Provisions for Short Term Vacations Rentals

City Attorney Emily M. Preston gave an overview of Chapter 27 Article IV.

Council Member Rob Turner made a motion to open the Public Hearing with Council Member George Turner providing the second. **The motion carried unanimously.**

In Favor

No one

Against
Faye Coffield
Dave Marcus

Council Member Clanton made a motion to close the Public Hearing with Council Member Rob Turner providing the second. **The motion carried unanimously.**

This was the first read only.

4. Special Land Use Permit (SLUP 18-002)

Nicole Dozier, Director of Planning and Development gave an overview of the Special Land Use Permit (SLUP 18-002). She said the Planning Commission recommended denial of SLUP 18-002, but staff is recommending approval with the following conditions. Only access on Covington Hwy, Deceleration Lane and additional landscaping.

Council Member Adoma made a motion to open the Public Hearing with Council Member Clanton providing the second. **The motion carried unanimously.**

In Favor
Michelle Battle for the applicant

Against
Charles Hill
Barbara Lee
Dave Marcus

Council Member Adoma made a motion to close the Public Hearing with Council Member George Turner providing the second. **The motion carried unanimously.**

Mayor Lary made a motion to defer with Council Member Clanton providing the second. **After much discussion the motion carried unanimously.**

5. Rezoning 6757 Covington Hwy (RZ 18-002)

Nicole Dozier, Planning and Development Director gave an overview of the Rezoning of 6757 Covington Highway. Staff recommended approval with the conditions that access to and from the site be limited to Covington Highway with a deceleration lane as approved by Georgia Department of Transportation, and the applicant agreed.

Council Member Clanton made a motion to open the Public Hearing with Council Member Adoma providing the second. **The motion carried unanimously.**

In Favor

Dave Marcus
Faye Coffield
Charles Hill
Barbara Lee

Against

No One

Council Member Adoma made a motion to close the Public Hearing with Council Member Clanton providing the second. **The motion carried unanimously.**

Council Member Clanton made a motion to approve the Rezoning of 6757 Covington Highway (RZ 18-002) with the conditions that access to and from the site be limited to Covington Highway, with a deceleration lane as approved by the Georgia Department of Transportation. Council Member Adoma provided the second. **The motion carried unanimously.**

14. Ordinance Adopting Chapter 14- Land Development

Attorney Emily M. Preston gave an overview of Chapter 14- Land Development.

Council Member George Turner made a motion to open the Public Hearing with Council Member Rob Turner providing the second. **The motion carried unanimously.**

In Favor

No One

Against

Bernard Knight
Dave Marcus
Faye Coffield

Council Member George Turner made a motion to close the Public Hearing with Council Member Adoma providing the second. **The motion carried unanimously.**

This was the first read only.

VII. MINUTES: Approval of Minutes of the Regular City Council Meeting of April 16, 2018

Council Member Cobble said under #7 New Business paragraph 3 it should be RFQ and not RFO. Council Member George Turner said under item #9 he did not make a motion for the Resolution.

Council Member George Turner made a motion to accept the minutes with the corrections. Council Member Adoma provided the second. **The motion carried unanimously.**

VIII. PRESENTATIONS:

City Attorney Kurrie spoke on questions concerning risk of litigation, RFQ for Project Management, filtering what is said or put on the internet and being civil in meetings.

IX. AGENDA ITEMS:

6. Resolution for Issuance of Request for Qualifications for SPLOST Project Management

City Manager, Michael Harris gave an overview regarding the request for qualifications for the SPLOST Project Management.

Council Member Adoma said she would like to make a motion based on the legal opinion from the City Attorney to direct the City Attorney to continue contract negotiations for all remaining portions of the Stonecrest SPLOST Management with Grice Consulting based on the original proposal voted on unanimously by the Council on August 21, 2017. Council Member George Turner provided the second.

Mayor Lary asked Council Member Adoma to make a substitute motion and the City Attorney said this is the first motion, so there is no need for a substitute.

There were discussions between Mayor and Council regarding the scope of the work, Pre SPLOST, contract negotiations, price tag, who should negotiate the contracts, why contracts were not brought back to Council, recommendations from Attorney not given to Council, Red line agreement Council never saw, decisions made without Council's input, who does the City Attorney work for, the responsibilities of the City Attorney to the City Council, Grice competing in the RFQ process. The City Attorney and City Manager gave a summary of what happen since the vote of August 21, 2017 vote. Mayor Lary spoke about the experience the city had with Grice Consulting and said staff has to live with the people that are selected. Council Member Adoma said for the record she did not know Mr. Funny

before all of this came about and we need to respect our vote. There was discussion on doing the project in house.

Council Member George Turner and Rob Turner called for the question.

A vote was taken on the motion with Council Members Cobble, Rob Turner, George Turner and Adoma voting yes, Council Member Clanton and Mayor Lary voted no. **The motion carried.**

Mayor Lary said when they lock a couple of you all up for this he will be standing there because something is wrong with this, period. He said he knew when he did not get return phone calls, something was going sideways. He said he wasted a flight coming back. He further said for the record he is dead against this and he knows it is shady, sideways and it is coming from people in the county and the same people who come up and complain about everything we do, need do the same now. He said this is a problem, a foundation of nonsense right off the bat and he does not know who is coaching you all or who is telling you what., but he can tell you that it is wrong. That he knows for a fact. He said we are the same people who turn down \$300,000.00 homes for apartments and say we want quality and you want us to be different, but we are no different from Dekalb doing the same shady back room nonsense.

7. Selection of Road Condition Analysis Company

Mayor Lary made a motion to select a Road Analysis Company for SPLOST with Council Member Clanton provided the motion. After much discussion Mayor Lary amended his motion to select Stantec as the Road Analysis Company for SPLOST with Council Member Clanton providing the second. A vote was taken with Council Members Cobble, Rob Turner, George Turner and Adoma voting against and Council Member Clanton and Mayor Lary voting in favor. **The motion failed.**

8. Intergovernmental Agreement with DeKalb County for HOST/EHOST

Council Member Adoma made a motion to enter into an Intergovernmental Agreement with DeKalb County for HOST/EHOST with Council Member George Turner providing the second. **The motion carried unanimously.**

9. Resolution Setting Work Session and Council Meeting Dates

Council Member Adoma made a motion to change the Council Meeting to 9:00am on the first Wednesday of each month with the Work Session to follow immediately and on the third Monday of each month have the Work Session at 6:00pm and the

Council Meeting at 7:00p.m. Council Member George Turner provided the second. **The motion carried unanimously.**

10. Adoption of Ordinance of the City of Stonecrest regarding SLUP 17-0002

Council Member George Turner made a motion to adopt the ordinance regarding SLUP 17-0002 with Council Member Adoma providing the second. **The motion carried unanimously.**

11. Adoption of Ordinance of the City of Stonecrest regarding SLUP 18-0001

Council Member George Turner made a motion to adopt the ordinance regarding SLUP 18-0001 with Council Member Rob Turner providing the second. **The motion carried unanimously.**

12. Adoption of Ordinance to Amend the Building Permit Fee Schedule and Land Development Fee Schedule in the City of Stonecrest.

Council Member Rob Turner made a motion to adopt the ordinance to amend the Building Permit Fee Schedule and Land Development Fee Schedule in the City of Stonecrest. Council Member Adoma provided the second. **The motion carried unanimously.**

13. Ordinance Adopting Chapter 18-Nuisances – **First Read Only**

14. Ordinance Adopting Chapter 14- Land Development- **First Read Only**

15. Ordinance Amending Chapter 15- Business Licenses to add Articles VII, XI, XIII and XVII – **First Read Only**

16. Ordinance to Amend Section 2.15 (a) of Article II of the City Charter- **First Read Only**

X. PUBLIC COMMENTS:

Faye Coffield spoke on public comments being back at the beginning of the meeting and the vote on the townhomes.

Dave Marcus spoke on the debate of Mayor and Council regarding Grice Consulting.

Edwina Clanton spoke on the silent majority and the denial of the gated community.

XI. CITY MANAGER COMMENTS:

The City Manager, Michael Harris reminded everyone of the Caribbean Festival that will be held in Stonecrest and the City will be closed from 9:00 until 1:00pm on Wednesday, May 23rd for Customer Service Training.

XII. CITY ATTORNEY COMMENTS:

Attorney Kurrie said there is the need for an Executive Session for litigation matters.

XIII. MAYOR AND COUNCIL COMMENTS:

Council Members Cobble, Rob Turner, Clanton and George Turner had no comments. Council Member Adoma reminded everyone of election day and to go vote.

Mayor Lary said he was disappointed and the city was going backwards, He said the residents are only 1/3 of the city. He spoke on the vote of the Planning Commission to deny the homes and said we will either grow or die. He said he is the only one with public private experience and this is not a Council/Mayor form of Government that this is a strong Mayor form of Government.

XIV. ADJOURNMENT:

Council Member Clanton made a motion to adjourn into Executive Session for litigation matters with Council Member Adoma providing the second. **The motion carried unanimously.**

XV. EXECUTIVE SESSION:

Council Member Adoma made a motion to reconvene back into the regular meeting with Council Member Rob Turner providing the second. **The motion carried unanimously.**

Council Member Adoma made a motion to adjourn to regular meeting with Council Member Rob Turner providing the second. **The motion carried unanimously**

WHEN AN EXECUTIVE SESSION IS REQUIRED, ONE WILL BE CALLED FOR THE FOLLOWING ISSUES: 1) PERSONNEL, 2) LITIGATION, 3) REAL ESTATE



CITY COUNCIL AGENDA ITEM

SUBJECT: An Ordinance Amending Chapter 27, Article IX-Definitions to Define Short Term Vacation Rental

☒ **ORDINANCE** ☐ **POLICY** ☐ **STATUS REPORT**
☐ **DISCUSSION ONLY** ☐ **RESOLUTION** ☐ **OTHER**

Date Submitted: 04/26/2018 **Work Session:** 05/02/2018 **Council Meeting:** 06/06/2018

SUBMITTED BY: City Attorney

PURPOSE: This ordinance is to amend Chapter 27 Article IX- definitions to define what short term vacation rental really means.

HISTORY: First Read on May 21, 2018

FACTS AND ISSUES:

OPTIONS:

RECOMMENDED ACTION: Second Read and Adoption

AN ORDINANCE OF THE CITY OF STONECREST, GEORGIA,
AMENDING CHAPTER 27, ARTICLE IX– DEFINITIONS
TO DEFINE SHORT TERM VACATION RENTAL

WHEREAS, the City of Stonecrest is authorized to exercise the power of zoning Ga. Const. Art. IX, Section II, ¶ IV, Ga. Const. Art. IX, Section II, ¶¶ I and III, Official Code of Georgia Annotated (O.C.G.A.) § 36-66-1 et seq., the City's Charter, the City's general police powers, and by other powers and authority provided by federal, state and local laws applicable hereto; and

WHEREAS, the City of Stonecrest continues to exercise its zoning powers to provide comprehensive city planning and ensure a safe, healthy, and aesthetically pleasing community; and

WHEREAS, defining certain terms used by the city throughout the Code of Ordinances, and specifically in Chapter 27 – Zoning, provides the citizens of the City of Stonecrest, Georgia the tools necessary for understanding and implementing the Code of Ordinances; and

WHEREAS, as the City experiences growth gains knowledge through the exercise of these powers, it may become necessary to amend the definitions enumerated in the Zoning Ordinance; and

WHEREAS, this Ordinance seeks to define the term "Short Term Vacation Rental."

THEREFORE, the Mayor and City Council of the City of Stonecrest, Georgia, hereby ordain as follows:

Section 1: The Code of the City of Stonecrest, Georgia, is hereby amended by adding a definition to section 9.1.3 – Defined terms, which reads as follows:

Short-term vacation rental means any dwelling unit, single-family dwelling, multi-family dwelling unit, two-family dwelling, three-family dwelling, duplex, triplex, urban single-family dwelling, condominium, townhouse, cottage development, dwelling unit, and structure used for residential dwelling that permits any portion of the premises or dwelling unit to be used for individually or collectively owned single family dwelling or any unit or group of units in a condominium, cooperative, or timeshare, or owner occupied single family dwelling, that for the accommodation of transient guests, for a fee, for less than 30 consecutive days. This is also identified as "STVR".

Section 2:

1. It is hereby declared to be the intention of the Mayor and City Council that all sections, paragraphs, sentences, clauses and phrases of this Ordinance are and were, upon their

enactment, believed by the Mayor and City Council to be fully valid, enforceable and constitutional.

2. It is hereby declared to be the intention of the Mayor and City Council that, to the greatest extent allowed by law, each and every section, paragraph, sentence, clause or phrase of this Ordinance is severable from every other section, paragraph, sentence, clause or phrase of this Ordinance. It is hereby further declared to be the intention of the Mayor and City Council that, to the greatest extent allowed by law, no section, paragraph, sentence, clause or phrase of this Ordinance is mutually dependent upon any other section, paragraph, sentence, clause or phrase of this Ordinance.
3. In the event that any phrase, clause, sentence, paragraph or section of this Ordinance shall, for any reason whatsoever, be declared invalid, unconstitutional or otherwise unenforceable by the valid judgment or decree of any court of competent jurisdiction, it is the express intent of the Mayor and City Council that such invalidity, unconstitutionality, or unenforceability shall, to the greatest extent allowed by law, not render invalid, unconstitutional or otherwise unenforceable any of the remaining phrases, clauses, sentences, paragraphs or sections of the Ordinance and that, to the greatest extent allowed by law, all remaining phrases, clauses, sentences, paragraphs and sections of the Ordinance shall remain valid, constitutional, enforceable, and of full force and effect.
4. All ordinances or resolutions and parts of ordinances or resolutions in conflict herewith are hereby expressly repealed.
5. The within ordinance shall become effective upon its adoption.
6. [The provisions of this Ordinance shall become and be made part of The Code of the City of Stonecrest, Georgia, and the sections of this Ordinance may be renumbered to accomplish such intention.]

SO ORDAINED AND EFFECTIVE this the ____ day of _____, 2018.

Approved:

Jason Lary, Sr., Mayor

As to form:

City Attorney

STATE OF GEORGIA
COUNTY OF DEKALB
CITY OF STONECREST

ORDINANCE 2018-_____

79 Attest:

80

81

82

83 _____
, City Clerk



CITY COUNCIL AGENDA ITEM

SUBJECT: An Ordinance Amending Chapter 27, Article V Adding Supplemental Use Regulations for Short Term Vacation Rentals

☒ **ORDINANCE** ☐ **POLICY** ☐ **STATUS REPORT**
☐ **DISCUSSION ONLY** ☐ **RESOLUTION** ☐ **OTHER**

Date Submitted: 04/26/2018 **Work Session:** 05/02/2018 **Council Meeting:** 06/06/2018

SUBMITTED BY: City Attorney

PURPOSE: This ordinance is to amend Chapter 27 Article V adding supplemental use regulations for short term vacation rentals.

HISTORY: First Read was May 21, 2018

FACTS AND ISSUES:

OPTIONS:

RECOMMENDED ACTION: Second Read and Adoption

**AN ORDINANCE OF THE CITY OF STONECREST, GEORGIA,
AMENDING CHAPTER 27, ARTICLE IV ADDING SUPPLEMENTAL USE
REGULATIONS FOR SHORT TERM VACATION RENTALS**

WHEREAS, the City of Stonecrest is authorized to exercise the power of zoning Ga. Const. Art. IX, Section II, ¶ IV, Ga. Const. Art. IX, Section II, ¶¶ I and III, Official Code of Georgia Annotated (O.C.G.A.) § 36-66-1 et seq., the City's Charter, the City's general police powers, and by other powers and authority provided by federal, state and local laws applicable hereto; and

WHEREAS, the City of Stonecrest continues to exercise its zoning powers to provide comprehensive city planning and ensure a safe, healthy, and aesthetically pleasing community; and

WHEREAS, as the City of Stonecrest experiences growth and gains knowledge through the exercise of these powers, it is necessary to and, amend, and/or remove certain requirements in the Zoning Ordinance; and

WHEREAS, the City of Stonecrest recognizes necessity of implementing regulations which protect the health, safety and welfare of its citizens as well as tourists in the city who choose alternative accommodations, such as Short Term Vacation Rentals.

WHEREAS, the Zoning Procedures Law, O.C.G.A. § 36-66-1, *et seq.*, provides statutory requirements which must be met by a local government to enact zoning ordinances and make zoning decisions, including, requiring publication of notice and public hearing prior to the enactment of zoning ordinances;

WHEREAS, the City of Stonecrest has advertised and held public hearings on _____ and _____ on the adoption of the amendment to Chapter 27, Article IV.

WHEREAS, this Ordinance seeks to regulate Short Term Vacation Rentals through its substantial zoning powers to ensure a safe, healthy, and aesthetically pleasing community for the citizens and visitors of the City of Stonecrest, Georgia.

THEREFORE, the Mayor and City Council of the City of Stonecrest, Georgia, hereby ordain as follows:

Section 1: The Code of the City of Stonecrest, Georgia, is hereby amended by adding Chapter 27, Article IV, Section 4.2.58 – Short Term Vacation Rental, which reads as follows:

4.2.58 – Short Term Vacation Rental

The following applies to all Short Term Vacation Rentals ("STVR"):

A. No individual renting the property shall stay for longer than 30 consecutive days

- 39 B. The STVR shall not be operated in such a way as to change the residential character
40 of the neighborhood in which it is located and shall comply with the noise ordinance.
41
42 C. There shall also be provided at least one (1) off-street parking space for each
43 bedroom used as a part of the STVR.
44
45 D. No signs or advertising are permitted to identify or advertise the existence of the
46 STVR, beyond those otherwise allowed for the residential property.
47
48 E. All STVR units shall be furnished with a telephone that is connected to a landline or
49 similar type connection, including a voice over internet protocol, in order that 911
50 dispatch may be able to readily identify the address and/or location from where the
51 call is made when dialed.
52
53 F. All STVR units shall post, on the inside of the front door of the rental unit, the name,
54 address and 24-hour phone or contact information for a designated manager or
55 designated contact person who shall be available at all times to respond to
56 complaints regarding the condition, operation, or conduct of occupants of the STVR.
57

58 **Section 2:**

- 59 1. It is hereby declared to be the intention of the Mayor and City Council that all sections,
60 paragraphs, sentences, clauses and phrases of this Ordinance are and were, upon their
61 enactment, believed by the Mayor and City Council to be fully valid, enforceable and
62 constitutional.
63
64 2. It is hereby declared to be the intention of the Mayor and City Council that, to the
65 greatest extent allowed by law, each and every section, paragraph, sentence, clause or
66 phrase of this Ordinance is severable from every other section, paragraph, sentence,
67 clause or phrase of this Ordinance. It is hereby further declared to be the intention of the
68 Mayor and City Council that, to the greatest extent allowed by law, no section, paragraph,
69 sentence, clause or phrase of this Ordinance is mutually dependent upon any other
70 section, paragraph, sentence, clause or phrase of this Ordinance.
71
72 3. In the event that any phrase, clause, sentence, paragraph or section of this Ordinance
73 shall, for any reason whatsoever, be declared invalid, unconstitutional or otherwise
74 unenforceable by the valid judgment or decree of any court of competent jurisdiction, it is
75 the express intent of the Mayor and City Council that such invalidity, unconstitutionality,
76 or unenforceability shall, to the greatest extent allowed by law, not render invalid,
77 unconstitutional or otherwise unenforceable any of the remaining phrases, clauses,
78 sentences, paragraphs or sections of the Ordinance and that, to the greatest extent allowed
79 by law, all remaining phrases, clauses, sentences, paragraphs and sections of the
80 Ordinance shall remain valid, constitutional, enforceable, and of full force and effect.
81

STATE OF GEORGIA
COUNTY OF DEKALB
CITY OF STONECREST

ORDINANCE 2018-_____

4. All ordinances or resolutions and parts of ordinances or resolutions in conflict herewith are hereby expressly repealed.

5. The within ordinance shall become effective upon its adoption.

6. The provisions of this Ordinance shall become and be made part of The Code of the City of Stonecrest, Georgia, and the sections of this Ordinance may be renumbered to accomplish such intention.

SO ORDAINED AND EFFECTIVE this the ____ day of _____, 2018.

Approved:

Jason Lary, Sr., Mayor

As to form:

City Attorney

Attest:

Brenda James, City Clerk



CITY COUNCIL AGENDA ITEM

SUBJECT: An Ordinance to Amend Chapter 27, Article IV of the Use Table to Add Provisions for Short Term Vacation Rentals

☒ **ORDINANCE** ☐ **POLICY** ☐ **STATUS REPORT**
☐ **DISCUSSION ONLY** ☐ **RESOLUTION** ☐ **OTHER**

Date Submitted: 04/26/2018 Work Session: 05/02/2018 Council Meeting: 06/06/2018

SUBMITTED BY: City Attorney

PURPOSE: This ordinance is to amend the Use Table to Add provisions for the Short-Term Vacation Rentals.

HISTORY: First Read on May 21, 2018

FACTS AND ISSUES:

OPTIONS:

RECOMMENDED ACTION: Second Read and Adoption

**AN ORDINANCE OF THE CITY OF STONECREST, GEORGIA,
AMENDING CHAPTER 27, ARTICLE IV USE TABLE TO ADD PROVISIONS FOR
SHORT TERM VACATION RENTALS**

WHEREAS, the City of Stonecrest is authorized to exercise the power of zoning Ga. Const. Art. IX, Section II, ¶ IV, Ga. Const. Art. IX, Section II, ¶¶ I and III, Official Code of Georgia Annotated (O.C.G.A.) § 36-66-1 et seq., the City's Charter, the City's general police powers, and by other powers and authority provided by federal, state and local laws applicable hereto; and

WHEREAS, the City of Stonecrest continues to exercise its zoning powers to provide comprehensive city planning and ensure a safe, healthy, and aesthetically pleasing community; and

WHEREAS, as the City of Stonecrest experiences growth and gains knowledge through the exercise of these powers, it is necessary to and, amend, and/or remove certain requirements in the Zoning Ordinance; and

WHEREAS, the City of Stonecrest recognizes necessity of regulating the location of residences and businesses to protect the health, safety and welfare of its citizens as well as tourists in the city who choose alternative accommodations, such as Short Term Vacation Rentals.

WHEREAS, the Zoning Procedures Law, O.C.G.A. § 36-66-1, *et seq.*, provides statutory requirements which must be met by a local government to enact zoning ordinances and make zoning decisions, including, requiring publication of notice and public hearing prior to the enactment of zoning ordinances;

WHEREAS, the City of Stonecrest has advertised and held public hearings on _____ and _____ on the adoption of the amendment to Chapter 27, Article IV.

WHEREAS, this Ordinance seeks to regulate Short Term Vacation Rentals through its substantial zoning powers to ensure a safe, healthy, and aesthetically pleasing community for the citizens and visitors of the City of Stonecrest, Georgia.

THEREFORE, the Mayor and City Council of the City of Stonecrest, Georgia, hereby ordain as follows:

Section 1: Table 4.1 of Article IV, Chapter 27 of the Code of the City of Stonecrest, Georgia is hereby amended to read as follows:

Section 2:

1. It is hereby declared to be the intention of the Mayor and City Council that all sections, paragraphs, sentences, clauses and phrases of this Ordinance are and were, upon their enactment, believed by the Mayor and City Council to be fully valid, enforceable and constitutional.
2. It is hereby declared to be the intention of the Mayor and City Council that, to the greatest extent allowed by law, each and every section, paragraph, sentence, clause or phrase of this Ordinance is severable from every other section, paragraph, sentence, clause or phrase of this Ordinance. It is hereby further declared to be the intention of the Mayor and City Council that, to the greatest extent allowed by law, no section, paragraph, sentence, clause or phrase of this Ordinance is mutually dependent upon any other section, paragraph, sentence, clause or phrase of this Ordinance.
3. In the event that any phrase, clause, sentence, paragraph or section of this Ordinance shall, for any reason whatsoever, be declared invalid, unconstitutional or otherwise unenforceable by the valid judgment or decree of any court of competent jurisdiction, it is the express intent of the Mayor and City Council that such invalidity, unconstitutionality, or unenforceability shall, to the greatest extent allowed by law, not render invalid, unconstitutional or otherwise unenforceable any of the remaining phrases, clauses, sentences, paragraphs or sections of the Ordinance and that, to the greatest extent allowed by law, all remaining phrases, clauses, sentences, paragraphs and sections of the Ordinance shall remain valid, constitutional, enforceable, and of full force and effect.
4. All ordinances or resolutions and parts of ordinances or resolutions in conflict herewith are hereby expressly repealed.
5. The within ordinance shall become effective upon its adoption.
6. The provisions of this Ordinance shall become and be made part of The Code of the City of Stonecrest, Georgia, and the sections of this Ordinance may be renumbered to accomplish such intention.

SO ORDAINED AND EFFECTIVE this the ____ day of _____, 2018.

Approved:

Jason Lary, Sr., Mayor

As to form:

STATE OF GEORGIA
COUNTY OF DEKALB
CITY OF STONECREST

ORDINANCE 2018-_____

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Attest:

City Attorney

Brenda James, City Clerk

Table 4.1 Use Table.

KEY: P - Permitted use Pa - Permitted as an accessory use SA - Special administrative permit from Community Development Director SP - Special land use permit (SLUP)																									
Use	RE	RLG	R-100	R-85	R-75	R-60	RSM	MR-1	MR-2	HR-1,2,3	MHP	RNC	OI	OIT	NS	C-1	C-2	OD	M	M-2	MU-1	MU-2	MU-3	MU-4,5	See Section 4.2
AGRICULTURAL																									
Agriculture and Forestry																									
Commercial greenhouse or plant nursery															P	P	P		P	P	P				✓
Temporary or portable sawmill	P																		P	P					✓
Urban, community garden, up to 5 ac.	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	✓
Urban, community garden, over 5 ac.	SA	SA	SA	SA	SA	SA	SA	SA	SA	SA	SA	SA	SA	SA	SA	SA	SA	SA	SA	SA	SA	SA	SA	SA	
Animal Oriented Agriculture																									
Dairy																			P	P					✓
Keeping of livestock	P	P	P	P	P							P							P						✓
Keeping of poultry/pigeons	P	P	P	P	P							P							P						✓
Livestock sales pavilion																				P					✓
Riding academies or stables	P	P	P	P	P																				✓
RESIDENTIAL																									
Dwellings																									
Dwelling, cottage home						SP	SP	SP	SP	SP			SP												✓
Dwelling, mobile home											P								Pa	Pa					✓
Dwelling, multi-family								P	P	P									SP		SP	SP	SP		✓
Dwelling, multi-family (supportive living)								SP	SP	SP	SP	SP	SP								SP	SP	SP	SP	✓
Dwelling, townhouse							P	P	P	P		P	SP	P							P	P	P	P	✓
Dwelling, urban single-family							P	P	P	P		P		P							P	P	P	P	✓
High-rise apartment										P															
Dwelling, single-family (attached)							P	P	P	P				P							P	P	P	P	
Dwelling, single-family (detached)	P	P	P	P	P	P	P	P	P	P	P	P									P	P	P		
Dwelling, three-family							P	P	P	P		P									P	P	P	P	
Dwelling, two-family							P	P	P	P		P									P	P	P	P	
Dwelling, single-family, accessory (guesthouse, in-law suite)	Pa	Pa	Pa	Pa	Pa	Pa	Pa	Pa	Pa	Pa											Pa	Pa	Pa	Pa	✓

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Home occupation, no customer contact	SA	SA	SA	SA	SA	SA	SA	SA	SA	SA	SA	SA										SA	SA	SA	SA	✓	
Home occupation, with customer contact	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP										SP	SP	SP	SP	✓	
Live/work unit								P	P	P			P	P		P	P		P	P	P	P	P	P	P	✓	
Mobile home park											P															✓	
Accessory uses or structures	Pa	Pa	Pa	Pa	Pa	Pa	Pa	Pa	Pa	Pa	Pa	Pa	Pa	Pa	Pa	Pa	Pa	Pa	Pa	Pa	Pa	Pa	Pa	Pa	Pa	✓	
Housing and Lodging																											
Bed and breakfast	SP	SP	SP				SP	SP	SP	SP			P	P		P	P						P	P	P	✓	
Bed and breakfast, home stay	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP		SP														✓	
Boarding/Rooming house								SP	SP	SP																✓	
Convents or monasteries	SP	SP	SP	SP	SP	SP	SP	SP	SP				P	P									P	P	P	✓	
Dormitory													Pa	Pa		Pa	Pa	Pa	Pa			Pa	Pa	Pa	Pa	✓	
Extended stay hotel/motel													SP			SP	SP						SP	SP	SP	✓	
Fraternity house or sorority house													Pa										Pa	Pa		✓	
Hotel/Motel													P			P	P	P					P	P	P	✓	
Short Term Vacation Rental	SP	SP	SP					SP														SP	SP			✓	
Nursing care facility or hospice													P	P		P	P		SP	SP	P	P	P	P	✓		
Personal care home, community, 7 or more	SP	SP	SP	SP	SP	SP			SP	SP	SP	SP	P	P	SP	P	P					SP	SP	SP	SP	✓	
Personal care home, group, 4-6	SP	SP	SP	SP	SP	SP			SP	SP	SP	SP	P	P	SP	P	P					SP	SP	SP	SP	✓	
Child caring institution, group, 4-6	SP									SP			P	P		P	P		SP	SP					SP	✓	
Child caring institution, community, 7 or more								SP	SP	SP				SP	P	P	P					SP	SP		P	✓	
Senior housing	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP								SP	SP	SP	SP	✓	
Shelter for homeless persons, 7-20													SP	SP		SP	SP									✓	
Shelter for homeless persons for no more than six (6) persons													SP	SP		SP										✓	
Transitional housing facility, 7-20										SP			SP	SP												✓	

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Use	KEY: P - Permitted use Pa - Permitted as an accessory use												SA - Special administrative permit from Community Development Director SP - Special land use permit (SEUP)										See Section 4.2		
	RE	RLG	R-100	R-85	R-75	R-60	RSM	MR-1	MR-2	HR-1,2,3	MHP	RNC	OI	OIT	NS	C-1	C-2	OD	M	M-2	MU-1	MU-2		MU-3	MU-4,5
INSTITUTIONAL/PUBLIC																									
Community Facilities																									
Cemetery, columbarium, mausoleum	SP																								
Club, order or lodge, fraternal, non-commercial																									
Coliseum or stadium/not associated with church or school																									
Funeral home, mortuary																									
Golf course or clubhouse, public or private	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
Government facilities	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
Hospital or accessory ambulance service																									
Library or museum																									
Cultural facilities																									
Recreation club	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	
Neighborhood or subdivision clubhouse or amenities	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
Places of worship	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	
Recreation, outdoor																									
Swimming pools, commercial	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	
Tennis courts, swimming pools, play or recreation areas, community	Pa	Pa	Pa	Pa	Pa	Pa	Pa	Pa	Pa	Pa	Pa	Pa	Pa	Pa	Pa	Pa	Pa	Pa	Pa	Pa	Pa	Pa	Pa	Pa	
Education																									
Colleges, universities, research and training facilities																									
Private educational services, home occupation	Pa	Pa	Pa	Pa	Pa	Pa	Pa	Pa	Pa	Pa	Pa	Pa	Pa	Pa	Pa	Pa	Pa	Pa	Pa	Pa	Pa	Pa	Pa	Pa	
Private kindergarten, elementary, middle or high schools	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	
Vocational schools																									
Specialized schools																									
COMMERCIAL																									

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SP - Special land use permit (SLUP)														
See Section 4.2														
Use	RE	RLG	R-100	R-85	R-75	R-60	RSM	MR-1	MR-2	HR-1,2,3	MHP	RNC	OI	OIT
Automobile or truck rental or leasing facilities														
Automobile brokerage														
Auto recovery, storage														
Automobile repair or maintenance, minor														
Automobile repair, major														
Automobile sales or truck sales														
Automobile service stations														
Automobile upholstery shop														
Automobile wash/wax service														
Boat sales														
Retail automobile parts or tire store														
Service area, outdoor														
Trailer or RV salesroom and lot														
Office														
Accounting office														
Building or construction office														
Building, landscape, heavy construction contractor office (material, equipment, storage)														
Engineering or architecture office														
Finance office or banking														
General business office														
Insurance office														
Legal office														
Medical office														
Real estate office														
Recreation and Entertainment														
Sexually Oriented Business														
Drive-in theater														
Fairground or amusement park														
Indoor recreation (bowling alleys, movie theatres and other activities conducted wholly indoors)														

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																										SP - Special land use permit (SLUP)	
Nightclub or late night establishment																SP	SP								SP	✓	
Outdoor recreation (miniature golf, batting cages, tennis, Go-cart and other outdoor activities)	SP																P	P	P	SP						✓	
Special events facility	SP												P	P		P	P	P	P			P	P	P	P		
Theaters with live performance, assembly or concert halls, or similar entertainment within enclosed building													P	P		P	P						P	P	P		
Retail																											
Alcohol outlet, retail sales, primary or accessory															SP	SP	SP	P	P			S	SP	SP	SP	✓	
Apparel or accessories store								Pa	Pa	Pa					P	P	P					P	P	P	P		
Art gallery															P	P	P	P				P	P	P	P		
Book, greeting card, or stationery store															P	P	P	P				P	P	P	P		
Camera or photography															P	P	P	P				P	P	P	P		
Computer or computer software store															P	P	P	P				P	P	P	P		
Convenience store (see alcohol outlet or fuel pumps accessory)																P	P	P	P			P	P	P	P	✓	
Drive-through facilities (other than restaurants) in Activity Center character areas																						S	SP	SP	SP	✓	
Drive-through facilities (other than restaurants) in all other character areas													P				P	P	P	P							
Farm or garden supply store	P														P	P	P	P	P	P		P	P	P	P		
Farmer's market, permanent													P	P	P	P	P	P	P	P		P	P	P	P	✓	
Farmer's market, temporary/seasonal	SA	SA	SA	SA	SA	SA	SA	SA	SA	SA	SA	SA	SA	SA	SA	SA	SA	SA	SA	SA	SA	S	SA	SA	SA	SA	✓
Florist													Pa		P	P	P	P	P			P	P	P	P		
Fortune Telling																	SP	P	P								
Specialty food stores (e.g., coffee, ice cream) (see alcohol outlet)													Pa		P	P	P	P				P	P	P	P		
Fuel dealers, manufacturers or wholesalers																	P										

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Fuel pumps, accessory															SP	SP	SP		P	P					✓
Gift, novelty, or souvenir store													Pa		P	P	P	P			P	P	P	P	
Gold buying, precious metals																Pa	P	P							
Grocery stores (see alcohol outlet)								Pa	Pa	Pa					P	P	P	P			P	P	P	P	
Hardware store or other building materials store															P	P	P	P	P	P	P	P	P	P	
Hobby, toy or game store															P	P	P	P			P	P	P	P	
Jewelry store															P	P	P	P			P	P	P	P	
Music or music equipment store (retail)															P	P	P	P			P	P	P	P	
Liquor store (see alcohol outlet)															SP	SP	SP	P	P	P	SP	SP	SP	SP	✓
News dealer or news store													P	P	P	P	P	P	P	P	P	P	P	P	
Office supplies and equipment store															P	P	P	P	P		P	P	P	P	
Pawn shop, title loan																	SP	P	P						✓
Pet supply store															P	P	P	P	P		P	P			
Pharmacy or drug store (see alcohol outlet)								Pa	Pa	Pa		Pa	Pa	Pa	P	P	P	P			P	P	P	P	
Radio, television or consumer electronics store																P	P	P			P	P	P	P	
Retail, 5,000 sf or less								Pa	Pa	Pa			Pa	Pa	P	P	P	P	P	P	P	P	P	P	
Retail, over 5,000 sf (see also shopping center)															P	P	P	P			P	P	P	P	
Retail warehouses/wholesales providing sales of merchandise with no outdoor storage																P	P	P	P		P	P	P	P	
Shopping center															P	P	P	P			P	P	P	P	
Specialty store															P	P	P	P			P	P	P	P	
Sporting goods or bicycle sale															P	P	P	P			P	P	P	P	
Tattoo Parlor and Piercing Studio																SP	P	P							
Thrift, secondhand, antique store																P	P		P						
Trade shops: electrical, plumbing, heating/cooling, roofing/siding, with no outside storage													P	P		P	P	P	P	P					
Variety store													Pa		P	P	P	P			P	P	P	P	

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Temporary Commercial Uses																									
Temporary outdoor sales, seasonal	SA	SA	SA	SA	SA	SA	SA	SA	SA	SA	SA	SA	SA	SA	SA	SA	SA	SA	SA	SA	SA	SA	SA	SA	✓
Temporary produce stand	SA	SA	SA	SA	SA	SA	SA	SA	SA	SA	SA	SA	SA	SA	SA	SA	SA	SA	SA	SA	SA	SA	SA	SA	✓
Temporary outdoor retail sales	SA	SA	SA	SA	SA	SA	SA	SA	SA	SA	SA	SA	SA	SA	SA	SA	SA	SA	SA	SA	SA	SA	SA	SA	✓
Temporary outdoor events	SA	SA	SA	SA	SA	SA	SA	SA	SA	SA	SA	SA	SA	SA	SA	SA	SA	SA	SA	SA	SA	SA	SA	SA	✓
Temporary trailer, as home sales office or construction trailer	SA	SA	SA	SA	SA	SA	SA	SA	SA	SA	SA	SA	SA	SA	SA	SA	SA	SA	SA	SA	SA	SA	SA	SA	✓
Restaurant/Food establishments																									
Brewpub/Beer Growler															P	P	P		P		P	P	P	P	
Catering establishments													P	P		P	P		P		P	P	P	P	
Restaurants (acc. to hotel/motel)													P			P	P	P				P	P	P	
Restaurants (non-drive-thru)								Pa	Pa	Pa		Pa	Pa	Pa	P	P	P		P		P	P	P	P	
Restaurants with a drive-thru configuration in Activity Center character area																SP	SP				SP				✓
Restaurants with a drive-thru configuration (all other character areas)																P	P				P				✓
Transportation and Storage																									
Bus or rail stations or terminals for passengers																SP	SP		SP	SP	SP	SP	SP	SP	
Heliport													SP			SP	SP	SP	P	P			SP	SP	✓
Parking, commercial lot													Pa			P	P	P	P		P	P	P	P	✓
Parking, commercial garage													Pa			P	P	P	P		P	P	P	P	
Taxi, ambulance or limousine service, dispatching or storage.																	P	P	P	P					✓
Taxi, ambulance, limousine dispatch office only (no vehicle parking)													P	P	P	P	P		P	P	P	P	P	P	
Taxi stand													P	P	P	P	P	P	P	P	P	P	P	P	
Services																									

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																										KEY: P - Permitted use Pa - Permitted as an accessory use													
																										SA - Special administrative permit from Community Development Director SP - Special land use permit (SLUP)													
Adult day care center - 7 or more								SP	P		SP		SP									P	P	P	✓														
Adult day care facility - up to 6								SP		SP			P		P							P	P		✓														
Animal hospitals, veterinary clinic															P	P	P	P	P	P	P				✓														
Animal shelter/rescue center	SP																P	P	P	P	P				✓														
Banks, credit unions or other similar financial institutions								Pa	Pa	Pa			P	P	P	P	P	P	P	P	P	P	P																
Barber shop/ beauty salon or similar establishments								Pa	Pa	Pa			Pa	P	P	P	P	P	P	P	P	P	P																
Check cashing establishment, primary																		SP	P						✓														
Check cashing establishment, accessory																P	P	P	P	P	P	P	P		✓														
Child day care center (Kindergarten) - 7 or more																									✓														
Child day care facility - up to 6	SP							P	P	P	P		P	P	P	P	P	P	P	P	P	P	P		✓														
Coin laundry								Pa	Pa	Pa						P	P	P				P	P	P	✓														
Dog day care								SP	SP	SP						P	P	P	P	P	P	P	P	P	✓														
Dog grooming								Pa	Pa	Pa															✓														
Dry cleaning agencies, pressing establishments, or laundry pick-up stations								Pa	Pa	Pa			P	P	P	P	P	P	P	P	P	P	P	P															
Fitness center	Pa	Pa	Pa	Pa	Pa	Pa	Pa	Pa	Pa	Pa	Pa		P	P	P	P	P	P	P	P	P	P	P	P															
Kennel, breeding or boarding	SP														Pa	Pa	P	P	P	P					✓														
Kennel, commercial	SP															P	P	P	P	P																			
Kennel, noncommercial	SP	SP	SP	SP	SP												P	P	P	SP	SP																		
Landscape business																P	P	P	P	P	P	P	P	P															
Massage Establishment								Pa	Pa	P				a	P	P	P	P	P	P					✓														
Mini-warehouse																SP	SP	P	P	P					✓														
Multi-warehouse																SP	SP	P	P	P					✓														
Outdoor storage, commercial																	P	P	P	P					✓														
Personal services establishment								Pa	Pa	P		Pa	Pa	a	P	P	P	P	P	P	P	P	P	P															
Photoengraving, typesetting, electrotyping																		P	P	P	P	P	P																

See Section 4.2

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Photographic studios													P	P	P	P	P		P		P	P	P	P			
Plumbing, HV/AC equipment establishments with no outdoor storage																P	P		P	P							
Publishing or printing establishments													P	P			P		P	P							
Quick copy printing store													P	P	P	P	P		P	P	P	P	P	P			
Services, Medical and Health																											
Ambulance service or emergency medical services, private																P	P		P								
Health services clinic													P	P	P	P	P	P	P		P	P	P	P			
Home healthcare service													P	P		P	P		P		P	P	P	P			
Kidney dialysis center													P	P		P	P		P		P	P	P	P			
Medical or dental laboratories													P	P		P	P		P	P			SA	SA			
Services, Repair																											
Furniture upholstery or repair; home appliance repair or service																P	P		P	P							
Personal service, repair (watch, shoes, jewelry)								Pa	Pa	Pa			P	P	P	P	P		P		P	P	P	P			
Service area, outdoor																	Pa		Pa	P					✓		
INDUSTRIAL																											
Alcohol or alcoholic beverage manufacturing																			P	P							
Alternative energy production																		SP	P	P							
Automobile/truck manufacturing																				P							
Brick, clay, tile, or concrete products terra cotta manufacturing																				P							
Building materials or lumber supply establishment																	P		P								
Cement, lime, gypsum, or plaster of Paris manufacturing																				P							
Compressed gas fuel station																	SP		P	P							
Chemical manufacture, organic or inorganic																				P							
Contractor, general (See also Building or Construction Office)																	P		P	P		P	P		✓		

Table 4.1 Use Table.

KEY: P - Permitted use Pa - Permitted as an accessory use		SA - Special administrative permit from Community Development Director SP - Special land use permit (SLUP)																							
Use	RE	RLG	R-100	R-85	R-75	R-60	RSM	MR-1	MR-2	HR-1,2,3	MHP	RNC	OI	OIT	NS	C-1	C-2	OD	M	M-2	MU-1	MU-2	MU-3	MU-4,5	See Section 4.2
Contractor, heavy construction, outside storage																	P		P	P					✓
Contractor, special trade																	P		P	P					
Crematoriums																			P	P					✓
Distillation of bones or glue manufacture																				P					
Dry cleaning plant																			P	P					
Dye works																				P					
Explosive manufacture or storage																				P					
Fabricated metal manufacture																				P					
Fat rendering or fertilizer manufacture																				P					
Fuel dealers, manufactures or wholesalers																			P	P					
General aviation airport																			P	P					✓
Heavy equipment repair service or trade																	P		P	P					
Ice manufacturing plant																			P	P					
Incidental retail sales of goods produced or processed on the premises																			Pa	Pa					
Incineration of garbage or refuse when conducted within an enclosed plant																				P					
Industrial, heavy																				P					
Industrial, light																			P	P					
Intermodal freight terminal, bus or rail freight or passenger terminal, or truck terminal																				P					
Leather manufacturing or processing																				P					
Light malt beverage manufacturer (See also Brewpub)															Pa	Pa	Pa		P	P	Pa	Pa	Pa	Pa	
Light manufacturing																			P	P					
Manufacturing, heavy																				P					✓
Manufacturing operations not housed within a building																				P					✓

Table 4.1 Use Table.

Use	KEY: P - Permitted use Pa - Permitted as an accessory use																			SA - Special administrative permit from Community Development Director SP - Special land use permit (SLUP)					See Section 4.2
	RE	RLG	R-100	R-85	R-75	R-60	RSM	MR-1	MR-2	HR-1,2,3	MHP	RNC	OI	OIT	NS	C-1	C-2	OD	M	M-2	MU-1	MU-2	MU-3	MU-4,5	
Mines or mining operations, quarries, asphalt plants, gravel pits or soil pits																			P	P					✓
Outdoor storage, industrial																			P	P					✓
Paper or pulp manufacture																				P					✓
Petroleum or inflammable liquids production, refining																				P					✓
Radioactive materials: utilization, manufacture, processing or emission																				P					✓
Railroad car classification yards or team truck yards																			P	P					✓
Recovered materials facility wholly within a building																			P	P					✓
Recovered materials processing wholly within a building																			P	P					✓
Recycling collection													Pa		Pa	Pa	Pa		P	P					
Recycling plant																			P	P					
Repair/manufacture of clocks, watches, toys, electrical appliances, electronic, light sheet metal products, equipment, machine tools, or machinery not requiring the use of press punch over 100 tons rated capacity or drop hammer																			P	P					
Research, experimental or testing laboratories																			P	P					
Rubber or plastics manufacture																			P	P					
Salvage yard (Junkyard)																			P	P					✓
Solid waste: general disposal, landfill, private industry disposal, handling facility, thermal treatment technology or hazardous/toxic materials including radioactive materials																				P					✓
Smelting: copper, iron, zinc, or ore																				P					
Storage yard, except vehicle																			P	P					✓

Table 4.1 Use Table.

KEY: P - Permitted use																									
Pa - Permitted as an accessory use																									
SA - Special administrative permit from Community Development Director																									
SP - Special land use permit (SLUP)																									
Use	RE	RLG	R-100	R-85	R-75	R-60	RSM	MR-1	MR-2	HR-1,2,3	MHP	RNC	OI	OIT	NS	C-1	C-2	OD	M	M-2	MU-1	MU-2	MU-3	MU-4,5	See Section 4.2
Storage yard for damaged or confiscated vehicles																			P	P					✓
Sugar refineries																				P					
Tire retreading or recapping																			P	P					
Towing or wreckage service																			P	P					
Transportation equipment manufacture																				P					
Transportation equipment storage or maintenance (vehicle)																			P	P					✓
Truck stop or terminal																			P	P					
Vehicle storage yard																			P	P					
Warehousing or Storage																		P	P	P					
COMMUNICATION – UTILITY																									
Amateur radio service or antenna	SP	SP	SP	SP	SP	SP	SP				SP														✓
Electric transformer station, gas regulator station or telephone exchange																				P					
Radio or television broadcasting studio													P				P		P	P	P	P	P	P	
Radio or television broadcasting transmission facility													Pa				P		P	P					
Satellite television antennae	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P		P	P	P	P	P	P	✓
WIRELESS TELECOMMUNICATION (cell tower)																									
Attached wireless telecommunication facility, used for non-residential purposes (prohibited if used as residential)	SA	SA	SA	SA	SA	SA	SA																		✓
Stealth design up to 150'								SP	SP	SP				SP							SP	SP	SP	SP	✓
New support structure or stealth design up to 199'													SA			SA	SA	SA	SA	SA					✓
COW's (non-emergency or event, no more than 120 days)	SA	SA	SA	SA	SA	SA	SA	SA	SA	SA	SA	SA	SA	SA	SA	SA	SA	SA	SA	SA	SA	SA	SA	SA	✓
COW's (declared emergency)	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	✓
Attached wireless telecommunication facility								P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	✓

Table 4.1 Use Table.

KEY: P - Permitted use Pa - Permitted as an accessory use											SA - Special administrative permit from Community Development Director SP - Special land use permit (SLUP)														
Use	RE	RLG	R-100	R-85	R-75	R-60	RSM	MR-1	MR-2	HR-1,2,3	MHP	RNC	OI	OIT	NS	C-1	C-2	OD	M	M-2	MU-1	MU-2	MU-3	MU-4,5	See Section 4.2
Monopole or attached facility in utility company's easements or rights-of-way	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	✓



CITY COUNCIL AGENDA ITEM

SUBJECT: An Ordinance Adopting Chapter 18 – Nuisances

☒ **ORDINANCE** ☐ **POLICY** ☐ **STATUS REPORT**
☐ **DISCUSSION ONLY** ☐ **RESOLUTION** ☐ **OTHER**

Date Submitted: 04/26/2018 Work Session: 05/02/2018 Council Meeting: 06/06/2018

SUBMITTED BY: City Attorney

PURPOSE: This ordinance is to adopt Chapter 18 Nuisances in its Entirety.

HISTORY: First Read on May 21, 2018

FACTS AND ISSUES:

OPTIONS:

RECOMMENDED ACTION: Second Read and Adoption

**AN ORDINANCE OF THE CITY OF STONECREST, GEORGIA, TO ADOPT
CHAPTER 18 – NUISANCES, IN ITS ENTIRETY**

WHEREAS, the City has the power to define, regulate, license, and prohibit any act, practice, conduct, or use of property which is detrimental to health, sanitation, cleanliness, welfare and safety of the inhabitants of the City, and to provide for the enforcement of such standards; and

WHEREAS, the Mayor and City Council find it desirable and in the interest of the health, safety, and welfare of the citizens of the City to adopt an ordinance regulating miscellaneous offenses;

THEREFORE, IT is ORDAINED as follows:

Section 1:

The Mayor and City Council of the City of Stonecrest, Georgia, hereby repeal DeKalb County's Chapter 18 and adopt an ordinance designated as "Chapter 18- Nuisances" to read and to be codified as follows:

CHAPTER 18 - NUISANCES

ARTICLE I – IN GENERAL

Sec. 18-1. - Purpose and findings.

(a) The governing authority finds that there is a need to establish minimum standards governing the use, occupancy, condition and maintenance of property, dwellings, buildings, and structures. Left completely unregulated, the failure to properly maintain property can become a threat to public safety and a detriment to property values and to the city's general public welfare, as well as create an aesthetic nuisance. The city finds that there is a substantial need directly related to the public health, safety and welfare to comprehensively address these concerns through the adoption of the following regulations. The purpose and intent of the governing authority of the city in enacting this Chapter is as follows:

- (1) To protect the health, safety and general welfare of the citizens of the city through the enactment of a comprehensive set of regulations governing property maintenance in the city;
- (2) To preserve the value of property and maintain for the city's residents, workers and visitors a safe and aesthetically attractive environment and to advance the aesthetic interest of the city;
- (3) To establish minimum standards governing supplied utilities and facilities and other physical things and conditions essential to make dwellings, buildings and structures and surrounding premises safe, sanitary and fit for human use and habitation;
- (4) To establish minimum standards governing the use, occupancy, condition and maintenance of property, dwellings, buildings, and structures;
- (5) To promote and protect the public health and safety through the control of weeds and grass which constitute a fire hazard and a public nuisance;
- (6) To fix certain responsibilities and duties of owners, operators and occupants of dwellings;
- (7) To provide for the condemnation of buildings and structures deemed unfit for human use and habitation and provide for removal of such buildings at public expense after hearing pursuant to Chapter 7;
- (8) To authorize the inspection of dwellings and structures; and

- (9) To prohibit property owners from maintaining property in a manner not expressly authorized by this Chapter, to provide for the maintenance of property, and to provide for the enforcement of the provisions of this Chapter.

Sec. 18-2. - Scope and application.

- (a) Every building, dwelling or structure within the limits of city, whether occupied or vacant, shall conform to the requirements of this Chapter and Chapter 7, regardless of when such building may have been constructed, altered or repaired. However, when a building, dwelling or structure is vacant, the owner shall only maintain the exterior of the property in compliance with this Chapter, ensure the interior has been cleaned of trash, rubbish and debris, and secure the building, dwelling or structure in a closed and inaccessible manner until occupied. Any building, dwelling or structure that is vacant and closed shall be boarded to minimum specifications as determined by the building official. Owners shall conform their property to the full requirements of this Chapter prior to the occupation of any vacant property. Where applicable, this Chapter also governs the condition of unimproved property.
- (b) Repairs and alterations in restoring a building to its condition previous to damage or deterioration, or altering such building in conformity with this Chapter in such manners as will not extend or increase an existing nonconformity or hazard may be made with approved materials similar in kind to those of which such building is constructed and are authorized by law.
- (c) Where repairs, alterations, construction, maintenance and work required to meet the provisions of this Chapter are regulated and/or required to be permitted by other ordinances, such repairs, alterations, construction, maintenance and work shall comply with all provisions of this Code. In the event of a conflict between two (2) regulations, the regulation most recently enacted shall govern.
- (d) The provisions of this Code shall not be mandatory for existing buildings, dwellings or structures designated by the state, DeKalb County, or the city as historic buildings when such buildings, dwellings or structures are judged by the public authority to be safe and in the public interest of health, safety and welfare.
- (e) Nothing in this Chapter shall prohibit the City from exercising any other remedy granted under the Code of Ordinances, including in Chapter 7. Furthermore, nothing in this Section shall prohibit the City from declaring any property a public nuisance as provided for under the Code of Ordinances or Georgia law.

Sec. 18-3 – 18-6. Reserved.

ARTICLE II. – PROPERTY MAINTENANCE CODE ADOPTION

Sec. 18-7. – Adopted Codes.

- (a) *Generally.* As future new editions and/or amendments of the code listed below are adopted by the board of community affairs of the state department of community affairs, it shall become a part of or replacement for the adopted code, rules and regulations or standards and shall become enforceable as prescribed without separate adoption by the city. All new construction, installations, repairs or alterations shall be in conformance with the current edition of the following codes and referenced appendixes with state amendments as currently adopted by the board of community affairs of the state department of community affairs: International Property Maintenance Code.
- (b) *Referenced standards.* Standards referenced in the above-stated codes shall be considered an integral part of the code without separate adoption. If specific portions of a standard are denoted by a code test, only those portions of the standard shall be enforced. Where code provisions conflict with a

standard, the code provisions shall govern. Permissive and advisory provisions in a standard shall not be construed as mandatory.

(c) *Appendices.* The appendices included in any code adopted pursuant to subsection (a) of this section are not intended for enforcement unless specifically referenced in this chapter or specifically included in this Code.

(d) *Referenced codes and standards.* The adopted state codes adopted pursuant to this chapter shall be considered part of the requirements of this chapter to the prescribed extent of each such adoption. Where differences occur between the provisions of this chapter and referenced codes and standards, the provisions of this chapter shall govern.

Sec. 18-8. - International Property Maintenance Code.

That a certain document, three (3) copies of which are on file in the City of Stonecrest, one (1) at the office of the City Clerk and two (2) at the office of Community Development, being marked and designated as the International Property Maintenance Code, 2012 edition, as published by the International Code Council, along with its 2015 Amendments, be hereby adopted as the Property Maintenance Code of the City of Stonecrest for regulating and governing the conditions and maintenance of all property, buildings and structures; by providing the standards for supplied utilities and facilities and other physical things and conditions essential to ensure that structures are safe, sanitary and fit for occupation and use; and the condemnation of buildings and structures unfit for human occupancy and use and the demolition of such existing structures as herein provided; providing for the issuance of permits and collection of fees therefore; and each and all of the regulations, provisions, penalties, conditions and terms of said Property Maintenance Code on file in the in the offices stated above are hereby referred to, adopted and made part of as if fully set out in this ordinance with the additions, insertions, deletions and changes prescribed in Section 18-9 of this ordinance.

Sec. 18-9. - Revisions to the International Property Maintenance Code.

Notwithstanding anything to the contrary contained herein, the International Property Maintenance Code adopted by reference in Section Section 18-7 and 18-8 above is adopted with the following additions, deletions, modifications, or amendments:

The term "*code official*" shall refer to the Director of the Department of Community Development or his or her designee, which term shall have the same meaning as given such term in this chapter

The following sections are hereby revised:

Section 101.1 Insert "*City of Stonecrest*".

Section 103.1 Change "Department of Property Maintenance" to "Department of Community Development or its designee."

Section 103.5 Delete section and Insert "*Fees shall be as determined by the Authority having Jurisdiction.*"

Section 106.2 Add Sentence: *"A citation without prior notice of violation maybe be served upon owner of property where a notice of any violation had previously been served within a 24-month period prior to the new violation."*

Section 106.4. Add Sentence: *"Penalties assessed for each violation shall be either a fine of up to \$1,000 or a term of incarceration of up to 6 months, or both."*

Section 107.1 is amended in its entirety to read as follows:

Notice to person responsible: Whenever the code official determines that there has been a violation of this Code or has grounds to believe that a violation has occurred, the code official may, but is not required to, provide notice of same prior to issuing a citation or accusation for said violation. If a notice is issued, it is given in the manner prescribed in Sections 107.2 and 107.3 to the person responsible for the violation as specified in this Code. Notices for condemnation procedures shall also comply with Section 108.3. The code official shall have the power to issue subpoenas requiring occupants, residents, owners or parties in interest of buildings under inspection, investigation or who have been accused of a violation of this Chapter to appear in Stonecrest Municipal Court. The code official or his designee shall also have the power to issue subpoenas to occupants, residents, owners or parties in interest to produce written records related to the property under inspection or investigation.

Section 302.4 Insert *"10 inches"*

Section 304.14 Insert *"April 1st and October 1st"*.

Section 602.3 Insert *"November 1st and April 1st"*

Section 602.4 Insert *"November 1st and April 1st"*

The following sections are hereby inserted:

Section 507. STORM DRAINAGE

Section 507.1. *General.* Drainage of roofs and paved areas, yards and courts, and other open areas on the premises shall not be discharged in a manger that creates a public nuisance.

Section 507.2. *Existing Stormwater Management Facilities.* Where no maintenance covenant or agreement has been recorded to define maintenance responsibility, it shall be the responsibility of the property owner to maintain the operational characteristics of any stormwater management facility (including ditches, pipes, and detention basins) located on their property pursuant to City requirements, and as designed, to keep the access easements free of obstructions, and to maintain the facility free of obstruction, silt or debris.

Section 507.3. *Stormwater Management Facilities.* Stormwater management facilities shall be maintained such that the storage capacity and/or function of any stormwater basin,

pond or other impoundment, whether natural or manmade, shall not be removed or diminished without written approval of the City.

Section 507.4. *Maintain.* The term "maintain" shall include removal of sediment, vegetative growth, debris or trash that reduces or hinders the facility from performing as intended.

Section 507.5. *Inspection.* Inspection programs by the City may be established on any reasonable basis, including but not limited to: routine inspections, random inspections, inspections based upon complaints or other notice of possible violations, and joint inspections with other agencies inspecting under environmental or safety laws. Provide copies of annual inspections of private stormwater management facilities to the City of Stormwater.

Sec. 18-10. – Pending Cases

Nothing in this ordinance or in the property Maintenance Code hereby adopted shall be construed to affect any suit or proceeding impending in any court, or any rights acquired, or liability incurred, or any causes of action acquired or existing, or under any act or ordinance hereby repealed; nor shall any just or legal right or remedy of any character be lost, impaired or affected by this ordinance.

Sec. 18-11. – Sec. 18-14. Reserved.

ARTICLE III. – VEHICLES

Sec. 18-15. – Restrictions and limitations.

(a) *Unregistered and unlicensed motor vehicles.* No person shall park or permit any other person to park any motor vehicle, except a motor vehicle parked in an enclosed building, on any premises in a residential district, if the vehicle:

(1) Is unregistered; or

(2) Has expired registration; or

(3) Does not have a lawful license plate or lawful temporary tag, which plate or tag is currently registered to that vehicle displayed thereon.

(b) *Inoperable vehicles.* No owner or occupant of any premises shall park any inoperable vehicle or permit any other person to park any inoperable vehicle on the owner's or occupant's premises for more than seventy-two (72) hours, unless the inoperable vehicle is parked in an enclosed structure. This section does not apply to premises for which the zoning code permits the storage of junk vehicles (as defined by section 27-31) outside an enclosed building. No person shall park any inoperable vehicle upon any public street, alley, or other public property. A court of competent jurisdiction shall have the authority,

upon conviction of a violation of this subsection, to order the owner and/or occupant of the premises to replace ground cover beneath the inoperable vehicle, if appropriate.

(c) *Major overhaul.*

(1) No person shall perform a major overhaul of any vehicle or permit any other person to perform a major overhaul of any vehicle on premises in a residential zone.

(2) No person shall perform a major overhaul of any vehicle or permit any other person to perform a major overhaul of any vehicle on any premises in a business, commercial or industrial district, unless the overhaul is performed at an approved automobile sales or repair establishment.

(d) *Storage of vehicles used for recreational purposes.* No person shall park or permit any other person to park any unlicensed, unregistered, inoperable or junk vehicles which are used for recreation purposes including, but not limited to, boats, snowmobiles, travel trailers, cargo trailers, campers, all-terrain vehicles and motor homes, on premises in a residential district, unless they are stored within an enclosed building. No person may park or permit any other person to park a vehicle used for recreation purposes except in the manner described in Chapter 27, as amended.

(e) *Storage of machinery, implements and equipment.* No person shall park or permit any other person to park any machinery, implements or equipment designed for use in agriculture, construction or other commercial enterprise, unless the machinery, implement or equipment is parked in an enclosed garage. This requirement does not apply to single parcels zoned for commercial or industrial purposes or to single agricultural parcels greater than five (5) acres. This requirement does not apply to such machinery, implements or equipment that is being used in construction of structures or dwellings so long as such machinery, implements or equipment is removed after fifteen (15) days.

Sec. 18-16.- Sec. 18-19. Reserved.

ARTICLE IV. – VEGETATION, DEBRIS, JUNK, ETC.

Sec. 18-20. - Vegetation and debris.

(a) *Vegetation.* There shall be no dead or hazardous trees, shrubs, ground cover or weeds likely to harbor vermin or insects, restrict or impede access to or public use of adjacent sidewalks and streets, obstruct traffic-control signs and devices and fire hydrants, or pose a risk of physical injury to the public.

(b) *Debris.* There shall not be maintained on a property for more than seven (7) calendar days any used or damaged lumber, junk, trash, debris, scrap metal, concrete, sand, asphalt, cans, bottles, tires, salvage materials, boxes, containers, bins, and abandoned, discarded, inoperative or unusable furniture, stove, refrigerator, freezer, sink, toilet, cabinet or other household fixtures, yard waste or equipment stored so as to be visible from public street, alley or from an adjoining property unless appropriate permits have been obtained from the city and county. Nothing herein shall preclude the placement of stacked firewood for use on the premises in the side or rear yards of the premises.

(c) *Shared property.* Where parking in open areas is used jointly for the benefit of two (2) or more owners or tenants, the responsibility for maintaining these parking areas free of garbage and trash shall be the joint and several responsibility of the owners and tenants.

Sec. 18-21. - Weeds, junk, etc., prohibited.

- (a) Persons shall keep their property free of those weeds and underbrush which create a health menace, fire hazard or an unsafe or unsanitary condition as well as trash, garbage, inoperable vehicles or other things thereon which constitute a violation of the provisions of this Chapter.
- (b) It shall be unlawful for the owner, operator or occupant of a dwelling, rooming house, building or structure to use the premises of such property for the open storage of any inoperable vehicle, household appliance, glass, building material, building trash or similar item. It shall be the duty and the responsibility of each owner, operator or occupant to maintain the premises of such property and to remove from the premises all abandoned items as listed above, including, but not limited to, weeds, dead trees, trash and garbage, upon notice from the city.
- (c) Owners and occupants of property shall not permit weeds or grass within one hundred fifty (150) feet of any building or structure to grow on such property to a height exceeding ten(10) inches, including in any public right of way.
- (d) Owners and tenants of property or structures abutting a street, sidewalk, lane or parking area on which the property or structure abuts shall maintain the property or structure clean and free of garbage and trash.
- (e) Where parking in open areas is used jointly for the benefit of two (2) or more owners or tenants, the responsibility for maintaining these parking areas free of garbage and trash shall be the joint and severable responsibility of the owners and tenants of these premises.

Sec. 18-22.-18-24. Reserved.

ARTICLE V. - ADMINISTRATION, ENFORCEMENT, VIOLATION AND PENALTIES

Sec. 18-25. - Enforcement generally.

- (a) The Director of the Community Development Department, or his or her designee is hereby authorized and directed to administer and enforce all of the provisions of this Chapter.
- (b) Whenever necessary to make an inspection or to enforce any of the provisions of this Chapter or whenever the Director of the Community Development Department or his or her designee has reasonable cause to believe that there exists in any building or structure any condition which makes such building or structure unsafe, the Director of the Community Development Department or his or her designee may enter the building or structure during normal work hours with the consent of the owner or an inspection warrant to inspect the same or to perform any duty imposed upon the Director of the Community Development Department or his or her designee by this Chapter.
- (1) If such property is occupied, the Director of the Community Development Department or his or her designee shall first present proper credentials and request and obtain consent to enter before entering the building or structure. Reasonable effort must be made to locate the owner or other persons having charge or control of the property when seeking permission for entry.
- (2) If no consent has been given to enter or inspect any building or structure, no entry or inspection shall be made without the procurement of a warrant from the judge of the municipal court of the City of Stonecrest or any other judge as permitted by law.
- (3) The person seeking the warrant must establish under oath or affirmation that the property to be inspected is to be inspected as a part of a legally authorized program of inspection which includes

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COUNTY OF DEKALB
CITY OF STONECREST

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that property or that there is probable cause for believing that there is a condition, object, activity, or circumstance which legally justifies such an inspection of that property.

- (4) The Director of the Community Development Department or his or her designee may enter the premises without consent or an inspection warrant to make an inspection or enforce any provisions of this Code only if so authorized by state or federal law.

Sec. 18-26. - No financial interest.

No official or employee of the city or the department making inspection of properties for the purpose of determining the necessity for repairs or corrections shall or may have any financial interest, directly or indirectly in any repairs or corrections which may be required by this Chapter.

Sec. 18-27. - Owner's right of entry.

Every occupant of a building, dwelling, or dwelling unit shall give the owner thereof, or the owner's agents or employees, access to any part of such building, dwelling or dwelling unit or its premises, at all reasonable times, for the purpose of maintenance, improving or making such repairs or alterations as are necessary to effect compliance with the provisions of this Chapter or with any lawful rule or regulation adopted pursuant to the provisions of this Chapter.

Sec. 18-28. - Stopping work.

Whenever the Director of the Community Development Department or his or her designee determines defective or illegal work is performed in violation of a provision or requirement of this Chapter or the City of Stonecrest Code of Ordinances, it shall order, in writing, all further work to cease until such defective or illegal work is corrected.

Sec. 18-29. - Prohibited manner of managing or controlling real property.

- (a) It shall be a violation of this Chapter for any person who has management authority over or control of property within a residential zoning district, whether as a legal or equitable owner, managing agent, leasing agent, rental agent or otherwise, to recklessly permit the physical condition or facilities of the property to become or remain in any condition which endangers the health or safety of any person. Such conduct shall include, but not be limited to:

- (1) Recklessly allowing property to be improperly secured, resulting in the commission of a crime against a resident of the property or against any other person;
- (2) Recklessly allowing property to collapse or partially collapse, resulting in injury to a person inside or outside of a building;
- (3) Recklessly allowing property to remain in violation of applicable building codes, fire codes, or other applicable provisions of this Code;
- (4) Recklessly failing to respond to reasonable requests by the city to repair property that is in violation of an applicable provision of the Code; or
- (5) Recklessly endangering the health and safety of any person by illegally altering or modifying a structure to increase the number of dwelling units or habitable rooms within the structure, or by allowing any such alteration or modification to continue or be used.

- (b) Any person found to have violated subsection (a) shall be subject to a fine of not less than five hundred dollars (\$500.00) for each offense. A separate and distinct offense shall be regarded as committed each day on which such person shall continue any such violation.

(c) This section shall not apply to any freestanding, owner-occupied single-family home or to any owner-occupied townhouse; provided, however, the requirements of this section shall apply to any single-family home, or townhouse, which is rented, or to any structure that is altered or modified in violation of this Code.

(d) This section shall not apply to any person who is a tenant on the property or in the structure that is the subject of the violation so long as such tenant has no ownership interest in the property or structure.

Sec. 18-30. - Violations.

A person who violates a provision of this Chapter or fails to comply with this Chapter is guilty of an offense. The owner of a building, structure or premises, where anything in violation of this Chapter shall be placed or shall exist, or any person who may have assisted in the commission of such violation, shall each be guilty of a separate offense. A purchaser, transferee, lessee or mortgagee who has actual or constructive knowledge of the issuance of a citation or notice of violation pursuant to this Chapter shall be deemed to have notice of the violation as of the date of such sale, transfer, lease or mortgage.

Sec. 18-31. - Penalties.

(a) Any person, firm or corporation that does anything prohibited or fails to do anything required by the provisions of this Chapter, as they now exist or as they may hereafter be amended, upon citation by the Director of the Community Development Department or his/her designee and conviction of the violation in a court of competent jurisdiction, shall be subject to a fine and/or imprisonment in accordance with the provisions of Chapter 1. Where any offense or violation continues from day to day, each day's continuance thereof shall be deemed a separate offense.

(b) Without limiting the foregoing, upon the presentment of evidence, the judge may consider whether the imposition of a sentence authorized under this Chapter would:

(1) Result in undue burden or hardship;

(2) Alter or impair the obligations created by court order or decree; or

(3) Otherwise not further the health, safety and welfare of the citizens of the city.

Sec. 18-32.- Sec. 18-34.- Reserved.

ARTICLE VI. - OFFENSES INVOLVING PROPERTY RIGHTS

DIVISION 1- GENERAL OFFENSES

Sec. 18-35. - Vandalism.

(a) *Public property.* It is unlawful for any person to vandalize, deface, or in any way alter the appearance or operation of any public property or park in the city.

(b) *Private property.*

(1) It is unlawful for any person to vandalize, deface, or in any way alter the appearance or operation of any private property without the consent of the owner.

(2) This subsection shall not be construed as affecting any remedy the private property owner may have at law.

Sec. 18-36. - Graffiti.

(a) *Property owner responsibility.* It shall be unlawful for any person who is the owner or who has primary responsibility for control of property or for repair or maintenance of in the city to permit property that is defaced with graffiti to remain defaced for a period in excess of ten days. The city may provide notice of defacement to such owner or responsible person by first class mail or personal service; provided that failure to receive notice shall not alleviate the person's responsibility for removal of the graffiti. Notice shall contain the following information:

- (1) The street address and/or description of the property sufficient for identification of the property;
- (2) A description of the graffiti with notice to remove same, and notice that the property owner shall, if the graffiti is not removed within ten days after receipt of the notice, be cited for violation of this section.

(b) *Exceptions to property owner responsibility.* The removal requirements of subsection (a) of this section shall not apply if the property owner or responsible party can demonstrate that:

- (1) The property owner or responsible party lacks the financial ability to remove the defacing graffiti; or
- (2) The property owner or responsible party has an active program for the removal of graffiti and has scheduled the removal of the graffiti as part of that program, in which case it shall be unlawful to permit such property to remain defaced with graffiti for a period of 30 days after defacement.

(c) *Citation of owner, right of city to remove graffiti.* Whenever the owner or person responsible for control or maintenance of private property fails or refuses to remove the graffiti after notice by the city to do so, such owner or responsible person shall be cited for violation of this section. The city may, upon the owner's or responsible person's failure to act, take any necessary action to remove, repaint, or repair the graffiti-damaged property and may use public funds for such action, the cost of which shall be a lien on the property served. Nothing in this section shall be construed to require the city to undertake such repair, repainting or removal.

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

Graffiti shall have that meaning ascribed to it in O.C.G.A. § 17-15A-2.

Graffiti implement or paraphernalia means any substance or material such as, but not limited to, aerosol paint containers, permanent ink markers, paint sticks, and etchers; also including, but not limited to, tips or nozzles which can be applied to aerosol paint containers.

(e) *Unlawful possession on public or private property.* It shall be unlawful for any person to possess any graffiti implement or paraphernalia while in, on, at or about any private property without the owner or occupant's permission or any public property including, but not limited to, public parks, playgrounds, swimming pools, recreation facilities, schools, school district facilities, libraries, courthouses, utility stations, storm drains or any other publicly owned, operated and/or maintained facility. This subsection shall not apply to persons located on public sidewalks or streets during each daily period from sunrise to

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396 sunset. This subsection shall not apply to any officer, employee or agent of the public entity that owns the
397 public property acting within the scope of their employment.

398
399 Sec. 18-37. - Tampering with utilities.

400 It is unlawful for any person to disturb, tamper with, or remove any guy wires from any electric power pole,
401 utility pole, water or gas meter, or telephone pole located within the city.

402
403 Sec. 18-38.- 18-50. Reserved.

404 DIVISION 2. - LITTERING

405 Sec. 18-51. - Purpose and intent.

406 The purpose of this division is to protect the public health, safety, environment, and general welfare through
407 the regulation and prevention of litter. The objectives of this division are:

- 408 (1) To provide for uniform prohibition of littering on public or private property throughout the city;
409 (2) To prevent harm to the public health, safety, environment, and general welfare, including the
410 degradation of water and aquatic resources caused by litter; and
411 (3) To preserve the value of the many unique natural resources in the city and enhance the beauty
412 and quality of life enjoyed by the citizens of the city.

413
414 Sec. 18-52. - Applicability.

415 This division shall apply to all public and private property within the city.

416
417 Sec. 18-53. - Compatibility with other regulations.

418 This division is not intended to interfere with, abrogate, or annul any other ordinance, rule or regulation,
419 statute, or other provision of law. The requirements of this division should be considered minimum
420 requirements, and where any provision of this division imposes restrictions different from those imposed
421 by any other ordinance, rule or regulation, or other provision of law, whichever provisions are more
422 restrictive or impose higher protective standards for human health or the environment shall be considered
423 to take precedence.

424
425 Sec. 18-54. - Severability.

426 If the provisions of any section, subsection, paragraph, subdivision or clause of this division shall be judged
427 invalid by a court of competent jurisdiction, such order of judgment shall not affect or invalidate the
428 remainder of any division, section, subsection, paragraph, subdivision or clause of this chapter.

429
430 Sec. 18-55. - Definitions.

431 *Litter* means any organic or inorganic waste material, rubbish, refuse, garbage, trash, hulls, peelings,
432 debris, grass, weeds, ashes, sand, gravel, slag, brickbats, metal, plastic, and glass containers, broken glass,

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dead animals or intentionally or unintentionally discarded materials of every kind and description which are not "hazardous waste" as such term is defined in O.C.G.A. § 16-7-51, paragraph 6.

Public or private property means the right-of-way of any road or highway; any body of water or watercourse or the shores or beaches thereof; any park, playground, building, refuge, or conservation or recreation area; timberlands or forests; and residential, commercial, industrial, or farm properties.

Sec. 18-56. - Prohibition against littering public or private property or waters.

It shall be unlawful for any person or persons to dump, deposit, throw or leave or to cause or permit the dumping, depositing, placing, throwing or leaving of litter on any public or private property in the city or any waters in the city unless:

- (1) The property is designated by the state or by any of its agencies or political subdivisions for the disposal of such litter, and such person is authorized by the proper public authority to use such property;
- (2) The litter is placed into a receptacle or container installed on such property; or,
- (3) The person is the owner or tenant in lawful possession of such property, or has first obtained consent of the owner or tenant in lawful possession, or unless the act is done under the personal direction of the owner or tenant, all in a manner consistent with the public welfare.

Construction site operators shall control waste at the construction site, such as discarded building materials, concrete truck washout, chemicals, litter, and sanitary waste.

Sec. 18-57. - Vehicle loads causing litter.

No person shall operate any motor vehicle with a load on or in such vehicle unless the load on or in such vehicle is adequately secured to prevent the dropping or shifting of materials from such load onto the roadway.

Sec. 18-58. - Violations, enforcement and penalties.

(a) *Violations.* It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this division, or to willfully obstruct, resist, impede, or interfere with the city or any code enforcement officer in connection with such person's enforcement of this division, or to retaliate or discriminate in any manner against such person as a reprisal for any act or omission of such person. Any violation of this subsection shall be punishable as a misdemeanor. Any person who has violated or continues to violate the provisions of this division, may be subject to the enforcement actions outlined in this section or may be restrained by injunction or otherwise sentenced in a manner provided by law.

(b) *Evidence.*

- (1) Whenever litter is thrown, deposited, dropped or dumped from any motor vehicle, boat, airplane, or other conveyance in violation of this division, it shall be prima facie evidence that the operator of the conveyance has violated this division.
- (2) Except as provided in subsection (1), whenever any litter which is dumped, deposited, thrown or left on public or private property in violation of this division is discovered to contain any article or articles, including but not limited to letters, bills, publications or other writing which display the name of the person thereon in such a manner as to indicate that the article belongs or belonged to such person, it shall be a rebuttable presumption that such person has violated this chapter.

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475 (c) *Penalties.* Any person who violates this division shall be guilty of a violation and, upon conviction
476 thereof, shall be punished as follows:

477 (1) By a fine of not less than \$200.00 and not more than \$1000.00, and/or imprisonment in
478 accordance with this Code. Where any offense or violation continues from day to day, each day's
479 continuance thereof shall be deemed a separate offense; and

480 (2) In addition to the fine set out in subsection (1) above, the violator shall reimburse the city for the
481 reasonable cost of removing the litter when the litter is or is ordered removed by the city; and

482 (3) In the sound discretion of the court, the person may be directed to pick up and remove from any
483 public street or highway or public right-of way any litter he or she has deposited and any and all
484 litter deposited thereon by anyone else prior to the date of execution of sentence; or

485 (4) In the sound discretion of the court, the person may be directed to pick up and remove any and
486 all litter from any public property, private right-of-way, or with prior permission of the legal
487 owner or tenant in lawful possession of such property, any private property upon which it can be
488 established by competent evidence that he has deposited litter, and any and all litter deposited
489 thereon by anyone prior to the date of execution of sentence; and

490 (5) The court may publish the names of persons convicted of violating this division.

491 (d) *Enforcement.* All city departments are hereby authorized, empowered and directed to enforce
492 compliance with this division. Primary enforcement responsibilities for litter control are shared by the
493 officers of the code enforcement division.

494 (e) *Liability.* Neither the city nor any department, agency, board, or officer of the city shall be liable
495 or accountable for or on account of any act or omission of any code enforcement officer in connection with
496 such person's enforcement of the provisions of this division.

497 Sec. 18-59- Reserved.

498

499 ARTICLE VII. – NOISE

500 Sec. 18-60. – Purpose and intent.

501 (a) Excessive sound is a serious hazard to the public health, welfare, safety, and the quality of life, and
502 a substantial body of science and technology exists by which excessive sound may be substantially abated,
503 and the people have a right to, and should be ensured an environment free from excessive sound.

504 (b) In order to ensure attractive residential and commercial areas, it is necessary that an audibly
505 satisfying environment be maintained. It is the policy of the mayor and council to prevent excessive sound
506 that may jeopardize the health, welfare, or safety of the citizens or degrade the quality of life. The city is
507 more likely to attract permanent residents and commercial enterprises if it controls and maintains
508 appropriate noise quality, and the residents will ultimately gain financial improvements and protection in
509 their quality of life as a result of these regulations.

510 (c) This division shall apply to the control of sound originating from sources within the limits of the
511 city.

512 Sec. 18-61. – Applicability.

513 This division applies to any sound projected, emitted or transmitted between 11:00 p.m. and 7:00 a.m.,
514 such that the sound is plainly audible anywhere within the interior of a single-family detached sealed
515 dwelling in a residential area. This division further applies to any sound projected, emitted or transmitted

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516 between 11:00 p.m. and 7:00 a.m., such that the sound is plainly audible in a common area of a multifamily
517 dwelling in a residential area.

518

519 Sec. 18-62. - Definitions.

520 For purposes of this article, certain phrases and words are defined below. Words or phrases not defined
521 in this article, but defined in applicable state law or elsewhere in this Code, shall be given that meaning.
522 All other words or phrases shall be given their common ordinary meaning unless the context requires
523 otherwise. The following words, terms and phrases, when used in this article, shall have the meanings
524 ascribed to them below except where the text clearly indicates a different meaning:

525 "*A*" *weighted sound level* means the sound level reported in units of dB(A) approximating the response
526 of human hearing when measuring sounds of low to moderate intensity as measured using the "A" weighting
527 network with a sound level meter meeting the standards set forth in ANSI S1.4-1983 or its successors.

528 *ANSI* means the American National Standards Institute.

529 "*C*" *weighted sound level* means the sound level reported in units of dB(C) as measured using the "C"
530 weighting network with a sound level meter meeting the standards set forth in ANSI S1.4-1983 or its
531 successors.

532 *Commercial area* means any parcel of land which is zoned for any commercial use, including regional
533 commercial centers, neighborhood and community-oriented stores, shopping centers and other developed
534 centers where commercial land uses predominate..

535 *Common area* means any portion of residential property that is either commonly used or owned by its
536 residents, is intended for the common enjoyment of its residents, or is accessible to residents of more than
537 one (1) dwelling located on the property and includes, but is not limited to, closed and open hallways,
538 stairwells, stairways, elevators, lobbies, parking lots, parking garages, indoor and outdoor recreational areas
539 within the development, laundry rooms, mailbox areas, yards, and open space that is the central organizing
540 feature of a development.

541 *Decibel (dB)* means the unit for the measurement of sound pressure based upon a reference pressure
542 of twenty (20) micropascals (zero (0) decibels), i.e., the average threshold of hearing for a person with very
543 good hearing.

544 *Dwelling* means one (1) or more rooms, designed, occupied or intended for occupancy as separate
545 living quarters for humans.

546 *Industrial area* means any parcel of land which is zoned for industrial use, including property used for
547 light and heavy distribution, warehouses, assembly, manufacturing, quarrying, truck terminals and landfills.
548 Such area includes property zoned M-1 and M-2 and includes any commercial land uses allowed in M-2.

549 *Mixed-use development* means a development which incorporates a variety of two (2) or more different
550 land uses, buildings or structures that include both primary residential uses and primary nonresidential uses
551 as part of the same development. Such uses may include, but not be limited to, residential, office,
552 commercial, institutional, recreational, or public open space in a compact urban setting that encourages
553 pedestrian-oriented development that can result in measurable reductions in traffic impacts. Such a
554 development would have interconnecting pedestrian and vehicular access and circulation.

555 *Multifamily dwelling* means a building designed for and containing more than one (1) dwelling, and
556 shall include single-family attached dwellings, multifamily dwelling units, apartments, duplexes, triplexes,
557 condominiums and attached townhomes.

558 *Plainly audible* means any sound which can be heard or detected by the unaided and unimpaired human
559 ear. Words and phrases need not be discernable in order for them to be considered plainly audible.

Residential area means any parcel of land which is zoned for any residential use, including single-family detached or attached dwellings, multifamily dwellings, or mobile home parks.

Sealed dwelling means any dwelling that has all of its windows and doors closed.

Single-family detached dwelling means a dwelling on an individual lot unattached to another dwelling.

Sound means any oscillation in pressure, particle displacement, particle velocity or other physical parameter, in a medium with internal forces that causes compression and rarefaction of that medium. The description of sound may include any characteristic of such sound, including duration, intensity and frequency. Bass reverberations constitute sound. Sound includes, but is not limited to:

- (1) Mechanical sound-making devices such as radios, stereos, boom boxes, televisions, musical instruments, horns, whistles, bells, chimes or carillons, phonographs, sound amplifiers or other machines or devices for the producing, reproducing or amplifying of sound;
- (2) Human-produced sounds such as yelling, shouting, hooting, whistling, singing, speaking or arguing;
- (3) Commercial advertising sounds;
- (4) Party noise;
- (5) Sound coming from motorized landscape maintenance devices such as lawn mowers, weed-whackers, leaf blowers, and chain saws;
- (6) Animal vocalizations from pets or nondomesticated animals;
- (7) Testing of burglar, fire or car alarms; and
- (8) Sound coming from construction and demolition activities such as hammering, nailing, drilling, sawing, and paving.

Sound level meter means an instrument that conforms to ANSI S1.4-1983 or its successors.

DIVISION 1. - NOISE IN RESIDENTIAL AREAS

Sec. 18-63. - Sound between the hours of 11:00 p.m. and 7:00 a.m.

(a) *Single-family detached dwellings.* It is unlawful for any person, between the hours of 11:00 p.m. and 7:00 a.m., to make, cause, or allow any sound from a source within his ownership or control that projects, emits or transmits into any single-family detached dwelling in a residential area owned or occupied by another, such that the sound is plainly audible anywhere within the interior of a sealed dwelling.

(b) *Multifamily dwellings.* It is unlawful for any person, between the hours of 11:00 p.m. and 7:00 a.m., to make, cause, or allow any plainly audible sound from a source within his ownership or control that projects, emits or transmits within the common area of a multifamily dwelling in a residential area.

(c) *Exclusions.* The prohibitions of this section shall not apply to the following sounds:

- (1) Sound by public safety vehicles, emergency signaling devices, or authorized public safety personnel for the purpose of alerting persons to the existence of an emergency;
- (2) Sound from an exterior burglar or fire alarm of any building, provided such burglar or fire alarm shall terminate its operation within five (5) minutes of its activation if the sound is uninterrupted, or ten (10) minutes, if intermittent, but the testing of burglar and fire alarms shall not be allowed between the hours of 8:00 p.m. and 7:00 a.m.;

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- (3) Sound from any automobile alarm, provided such alarm shall terminate its operation within five (5) minutes of its activation if the sound is uninterrupted, or ten (10) minutes, if the sound is intermittent;
- (4) The generation of sound in situations within the jurisdiction of the federal Occupational Safety and Health Administration;
- (5) National Warning System (NAWAS) sounds used to warn the community of attack or imminent public danger such as flooding, explosion or hurricane;
- (6) Sound of aircraft operations, where federal regulations preempt the local regulation of such specific operations;
- (7) Protests, marches, parades, or an event sanctioned by the federal, state or county government(s);
- (8) Surface carriers engaged in commerce by railroad;
- (9) Any other activity solely controlled and within the jurisdiction of federal or state law;
- (10) Sound projected, emitted or transmitted from motor vehicles, as such sound is regulated by O.C.G.A. § 40-6-14(a);
- (11) An emergency which is a serious urgent situation or occurrence that happens unexpectedly and requires immediate attention;
- (12) Sound from agricultural activities;
- (13) Sound from the travel of properly muffled motor vehicles on a public right-of-way;
- (14) Sound from residential air conditioner units;
- (15) Sound from swimming pool filtering systems; and
- (16) Sound resulting from activities for which a special administrative permit has been issued pursuant to the terms of this article.

Sec. 18-64. - Animal vocalizations, construction and landscaping activities, and the testing of burglar and fire alarms.

- (a) *Residential areas.* Instead of the limitations set forth in section 18-34, the sound limitations set forth in this section 18-35 apply to the following activities in all residential areas.
- (b) *Animal vocalizations.* Animal vocalizations in a residential area during the hours from 7:01 a.m. until 10:59 p.m. shall be regulated as follows. Pets and nondomesticated animals may not make any vocalizations for more than fifteen (15) minutes without interruption or more than thirty (30) minutes if intermittent. The limitations in subsections 18-35(a) and (b) apply to animal vocalizations between 11:00 p.m. and 7:00 a.m. The limitations in this subsection and in section 18-34 do not apply if the vocalizations are given as a warning to the presence of an intruder.
- (c) *Landscaping.* Power tools used for landscaping or yard maintenance shall only be operated between the hours of 7:01 a.m. and 9:00 p.m. on weekdays, or between the hours of 9:01 a.m. and 9:00 p.m. on weekends. Power tools used for landscaping or yard maintenance shall not be operated between the hours of 9:01 p.m. and 7:00 a.m. on weekdays, or between the hours of 9:01 p.m. and 9:00 a.m. on weekends. All motorized equipment used in these activities shall be operated with a muffler.
- (d) *Construction and demolition activity.* Construction and demolition activity or deliveries shall only be performed between the hours of 7:00 a.m. and 7:00 p.m. on weekdays, or between the hours of 8:00 a.m. and 5:00 p.m. on Saturdays. There shall be no construction or demolition activity or deliveries on

Sundays or New Year's Day, Thanksgiving Day, Christmas Day, Memorial Day, July 4, or Labor Day unless such activity arises from an emergency which puts the site or neighboring property owners and their property at risk of harm or loss.

- (e) *Testing burglar and fire alarms.* The testing of burglar or fire alarms shall not exceed five (5) minutes in duration, and shall not occur between the hours of 8:00 p.m. and 7:00 a.m. Fire drills may be conducted outside of these hours no more than once a month, and with prior notification to all properties within two hundred fifty (250) feet of the property line where the testing will take place.

DIVISION 2. - NOISE IN COMMERCIAL AND INDUSTRIAL AREAS AND IN MIXED-USE DEVELOPMENTS.

Sec. 18-65. - Maximum permissible sound levels and sound during certain hours.

- (a) This subdivision applies to all sound emitting from property in all commercial and industrial areas and all mixed-use developments within the city.
- (b) No person shall cause, suffer, allow, or permit the operation of any source of sound on any property within commercial areas, industrial areas, mixed-use developments that exceeds seventy (70) dB(A) in commercial areas; eighty (80) dB(A) in industrial areas; and seventy (70) dB(A) or seventy-three (73) dB(C) in mixed-use developments from the hours of 7:01 a.m. until 10:59 p.m. or sixty (60) dB(A) or sixty-three (63) dB(C) from the hours of 11:00 p.m. until 7:00 a.m. Sound shall be measured at any location at or within the property line of the affected property, and sound levels in excess of those established in this section shall constitute prima facie evidence that such sound is in violation of this article.
- (c) It is unlawful for any person between the hours of 11:00 p.m. and 7:00 a.m. to make, cause or allow any sound from a source within his ownership or control that projects, emits or transmits from a commercial area, industrial area, or a mixed-use development if such sound is plainly audible within the interior of a single-family detached sealed dwelling in a residential area or in a common area of a multifamily dwelling in a residential area.
- (d) The exclusions listed in subsection 18-63(c) apply as exclusions in all commercial and industrial areas and all mixed-use developments as if fully set forth in this section.

Sec. 18-66. - Animal vocalizations, construction and landscaping activities, and the testing of burglar and fire alarms.

- (a) *Time limitations.* Instead of the limitations set forth in section 18-65, the time limitations set forth in this section apply as specified in this section.
- (b) *Animal vocalizations in commercial and industrial areas and mixed-use developments.* Animal vocalizations in commercial and industrial areas and in mixed-use developments during the hours from 7:01 a.m. until 10:59 p.m. shall be regulated as follows. Pets and nondomesticated animals may not make any vocalizations for more than fifteen (15) minutes without interruption, or more than thirty (30) minutes, if intermittent. The limitations in subsection 18-63(a) and (b) apply to animal vocalizations between 11:00 p.m. and 7:00 a.m. The limitations in this subsection and in section 18-63 do not apply if the vocalizations are given as a warning to the presence of an intruder.
- (c) *Landscaping in mixed-use developments.* Power tools used for landscaping or yard maintenance shall only be operated between the hours of 7:01 a.m. and 9:00 p.m. on weekdays, or between the hours of 9:01 a.m. and 9:00 p.m. on weekends in a mixed-use development. Power tools used for landscaping or yard maintenance shall not be operated between the hours of 9:01 p.m. and 7:00 a.m. on weekdays,

or between the hours of 9:01 p.m. and 9:00 a.m. on weekends. All motorized equipment used in these activities shall be operated with a muffler.

- (d) *Construction and demolition activity in mixed-use developments.* Construction and demolition activity or deliveries shall only be performed between the hours of 7:00 a.m. and 7:00 p.m. on weekdays, or between the hours of 8:00 a.m. and 5:00 p.m. on Saturdays in mixed-use developments. There shall be no construction or demolition activity or deliveries on Sundays, New Year's Day, Thanksgiving Day, Christmas Day, Memorial Day, July 4, or Labor Day in mixed-use developments unless such activity arises from an emergency which puts the site or neighboring property owners and their property at risk of harm or loss.

- (e) *Testing burglar and fire alarms in a mixed-use development.* The testing of burglar or fire alarms in a mixed-use development shall not exceed five (5) minutes in duration, and shall not occur between the hours of 8:00 p.m. and 7:00 a.m. Fire drills may be conducted outside of these hours no more than once a month, and with prior notification to all properties within two hundred fifty (250) feet of the property line where the testing will take place.

DIVISION 3. - ENFORCEMENT, MEASUREMENT OF SOUND, ADMINISTRATION, VIOLATIONS AND PENALTIES.

Sec. 18-67. - Enforcement officers.

Where the provisions of this division require the measurement of sound with the use of a sound level meter, a code enforcement officer, and/or an authorized agent or designee thereof, who is trained in the use of a sound level meter shall make such measurement.

Sec. 18-68. - Procedures for the determination of sound levels.

Insofar as practicable, sound will be measured while the source under investigation is operating at normal, routine conditions and, as necessary, at other conditions, including but not limited to, design, maximum and fluctuating rates. All sound measurements shall be made at or within the property line of the affected property, unless otherwise directed in this article. When instrumentation cannot be placed at or within the property line, the measurement shall be made as close thereto as is reasonable. For the purposes of this ordinance, sound measurements are measured on the A- or C-weighted sound scale, as applicable, of a sound level meter of standard design and quality having characteristics established by ANSI.

Sec. 18-69. - Special variances; application and approval.

- (a) The Community Development Department, or a designated representative thereof, shall have the authority, consistent with this article, to grant special variances.

- (b) Any person seeking a special variance pursuant to this article shall file an application with the Community Department. The application shall contain information which demonstrates that bringing the source of sound into compliance with this article would constitute an unreasonable hardship on the applicant, on the community, or on the other persons. Notice of an application for a special variance shall be given by the Community Development Department, or a representative thereof, to persons who frequent the area of the sound or activity and who may be adversely affected by the granting of the variance. Any individual who claims to be adversely affected by allowance of the special variance may file a statement

727 with the Community Development Department containing any information to support such individual's
728 claim.

729 (c) In determining whether to grant or deny the application, the Community Development Department
730 shall balance the hardship to the applicant, the community, and other persons of not granting the special
731 variance against the adverse impact on the health, safety and welfare of persons affected, the adverse impact
732 on property affected, and any other adverse impact of granting the special variance. Applicants for special
733 variances may be required to submit any information reasonably required by the Community Development
734 Department. In granting or denying an application, the Community Development Department shall place
735 on public file a copy of the decision and the reasons for denying or granting the special variance.

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

741 (e) Application for extension of time limits specified in special variances or for modification of other
742 substantial conditions shall be treated like applications for initial special variances.

743 (f) The Community Development Department may issue guidelines approved by city council defining
744 the procedures to be followed in applying for a special variance and the criteria to be considered in deciding
745 whether or not to grant a special variance.

746

747 Sec. 18-70. - Violations and penalties.

748 (a) Any person that does anything prohibited or fails to do anything required by this article, upon
749 citation and conviction of the violation in a court of competent jurisdiction, shall be subject to fine and/or
750 imprisonment in accordance with this Code, with the following minimum penalties.

751 (1) Upon a first conviction of any violation of this division, the court shall impose a fine of not less
752 than two hundred dollars (\$200.00) in addition to any other penalty or punishment imposed by
753 the court.

754 (2) Upon a second conviction of a violation of this division within twelve (12) months measured
755 from the date of the first conviction, the court shall impose a fine of not less than five hundred
756 dollars (\$500.00) in addition to any other penalty or punishment imposed by the court.

757 (3) Upon a third conviction of a violation of this division within twenty-four (24) months measured
758 from the date of the first conviction, the court shall impose a fine of not less than one thousand
759 dollars (\$1,000.00) in addition to any other penalty or punishment imposed by the court.

760 (b) In addition to issuing a fine as provided in above, or in lieu thereof, the court may issue an order
761 requiring immediate abatement of any sound source alleged to be in violation of this section.

762 (c) No provision of this section shall be construed to impair any common law or statutory cause of
763 action, or legal remedy therefore, of any person for injury or damage arising from any violation of this
764 section or from other law.

765

766 ARTICLE VIII. - CLEAN INDOOR AIR

767 Sec. 18-71. - Title.

This article shall be known, cited, and referred to as the City of Stonecrest Smoke-Free Air Ordinance.

Sec. 18-72. - Findings and purpose.

(a) The mayor city council does hereby find that:

- (1) Numerous studies have found that tobacco smoke is a major contributor to indoor air pollution, and that breathing secondhand smoke is a cause of disease in healthy non-smokers, including heart disease, stroke, respiratory disease, and lung cancer.
- (2) Secondhand smoke is particularly hazardous to elderly people, individuals with cardiovascular disease, and individuals with impaired respiratory function, including asthmatics and those with obstructive disease. Children exposed to secondhand smoke have an increased risk of asthma, respiratory infections, sudden infant death syndrome, developmental abnormalities, and cancer.

(b) Accordingly, the mayor and city council finds and declares that the purposes of this article are:

- (1) To protect the public health and welfare by prohibiting smoking in public places and public and private places of employment; and
- (2) To guarantee the right of non-smokers to breathe smoke-free air; and
- (3) To recognize that the need to breathe smoke-free air shall have priority over the desire to smoke.

Sec. 18-73. - Definitions.

Words or phrases not defined in this article, but defined in applicable state law or elsewhere in this Code shall be given that meaning. All other words or phrases shall be given their common ordinary meaning unless the context requires otherwise. The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them below except where the text clearly indicates a different meaning:

Bar means an establishment that is devoted to the serving of alcoholic beverages for consumption by guests on the premises and in which the serving of food is only incidental to the consumption of those beverages, including, but not limited to, taverns, nightclubs, cocktail lounges, and cabarets.

Business means any corporation, sole proprietorship, partnership, limited partnership, limited liability corporation, limited liability partnership, professional corporation, enterprise, franchise, association, trust, joint venture, or other entity, whether for profit or nonprofit.

Child care facility means any institution, society, agency, or facility, whether incorporated or not, which either primarily or incidentally provides full-time care for children under 17 years of age outside of their own homes, subject to such exceptions as may be provided in rules and regulations of the state board of human resources, as defined by O.C.G.A. § 49-5-3.

Common area means only those outdoor areas of apartments, condominiums, townhomes, residential subdivisions, roominghouses, retirement facilities, nursing homes, personal care homes, and other multi-unit residential property that are either commonly used or owned by its residents and intended for the common enjoyment of its residents, or accessible to residents of more than one dwelling located on the property. Common areas include, but are not limited to, outdoor recreational areas within a development, and common open space that is the central organizing feature of a development.

E-cigarette means any electronic oral device, such as one composed of a heating element, battery, and/or electronic circuit, that creates a vapor of nicotine and simulates smoking. This term includes any

809 such device, whether manufactured, distributed, marketed, or sold as an e-cigarette, e-cigar, e-pipe, or under
810 any other product name or descriptive name.

811 *Employee* means an individual who is employed by a business in consideration for direct or indirect
812 monetary wages or profit.

813 *Employer* means an individual or a business that employs one or more individuals.

814 *Enclosed area* means all space between a floor and ceiling that is enclosed on all sides by solid walls
815 or windows, exclusive of doorways, which extend from the floor to the ceiling.

816 *Establishment* means any business, store, office or other place where goods or services are sold or
817 provided as part of a commercial venture. The term "establishment" includes, but is not limited to, the
818 following:

- 819 (1) Major retail establishments;
- 820 (2) General merchandise stores;
- 821 (3) Convenience stores;
- 822 (4) Special events facilities;
- 823 (5) Major and minor automobile repair and maintenance shops;
- 824 (6) Service stations, stores or shops for the repair or maintenance of appliances, shoes, motor vehicles
825 or other items or products;
- 826 (7) Establishments offering personal services to the general public;
- 827 (8) Hotels, motels and other places that provide lodging or board and lodging to the public; and
- 828 (9) Restaurants.

829 *Health care facility* means an office or institution providing care or treatment of diseases, whether
830 physical, mental, or emotional, or other medical, physiological, or psychological conditions, including, but
831 not limited to, hospitals, rehabilitation hospitals or other clinics, including weight control clinics, homes
832 for the chronically ill, laboratories, and offices of surgeons, chiropractors, physical therapists, physicians,
833 dentists, and all specialists within these professions. This definition shall include all waiting rooms,
834 hallways, private rooms, semiprivate rooms, and wards within health care facilities. This definition shall
835 not include long-term care facilities as defined in paragraph (3) of O.C.G.A. § 31-8-81.

836 *Infiltrate* means to permeate an enclosed area by passing through its walls, ceilings, floors, windows,
837 or ventilation systems to the extent that an individual can smell secondhand smoke.

838 *Outdoor recreational public place* means any outdoor area of a place to which the public is invited or
839 in which the public is permitted that is used, or intended for use, as a recreational area, regardless of any
840 fee or age requirement. The term "outdoor recreational public place" includes, but is not limited to, parks,
841 picnic areas, playgrounds, athletic or sports fields, golf courses, walking paths, gardens, hiking trails, bike
842 paths, horseback riding trails, swimming pool facilities, aquatic areas, water parks, skateboard parks,
843 amusement parks, stadiums, amphitheaters, beaches, lakes, and outdoor areas of roller- and ice-skating
844 rinks, concert venues, sports pavilions, gymnasiums, health spas, boxing arenas, bingo facilities, video
845 arcades, pool halls, bowling facilities, amusement centers, and theaters.

846 *Place of employment* means an enclosed area under the control of a public or private employer that
847 employees utilize during the course of employment, including, but not limited to, work areas, employee
848 lounges, restrooms, conference rooms, meeting rooms, classrooms, employee cafeterias, and hallways. A
849 private residence is not a place of employment unless it is used as a licensed child care, adult day-care, or
850 health care facility. This term shall not include vehicles used in the course of employment.

Public place means an enclosed area to which the public is invited or in which the public is permitted, including, but not limited to, banks, bars, educational facilities, health care facilities, laundromats, public transportation facilities, reception areas, restaurants, retail food production and marketing establishments, retail service establishments, retail stores, shopping malls, sports arenas, theaters, and waiting rooms. A private residence is not a public place unless it is used as a licensed child care, adult day-care, or health care facility.

Restaurant means an eating establishment, including, but not limited to, coffee shops, cafeterias, sandwich stands, and private and public school cafeterias, which gives or offers for sale food to the public, guests, or employees, as well as kitchens and catering facilities in which food is prepared on the premises for serving elsewhere. The term shall include a bar area within any restaurant.

Retail tobacco store means a retail store utilized primarily for the sale of tobacco products and accessories and in which the sale of other products is merely incidental.

Secondhand smoke means smoke emitted from lighted, smoldering, or burning tobacco when the person smoking is not inhaling, smoke emitted at the mouthpiece during puff drawing, and smoke exhaled by the person smoking.

Service line means an indoor line in which one or more persons are waiting for or receiving service of any kind, whether or not the service involves the exchange of money.

Shopping mall means an enclosed public walkway or hall area that serves to connect retail or professional establishments.

Smoking means inhaling, exhaling, burning, or carrying any lighted tobacco product including cigarettes, cigars, and pipe tobacco.

Smoking area means a separately designated enclosed room which need not be entered by an employee in order to conduct business that is designated as a smoking area and, when so designated as a smoking area, shall not be construed as to deprive employees of a nonsmoking lounge, waiting area, or break room.

Sec. 18-74. – Smoking prohibited; generally.

Except as allowed in this article, smoking is prohibited in all public places, outdoor recreational public places, common areas, and places of employment within the city.

Sec. 18-75. - Smoking prohibited; city property.

Smoking shall be prohibited in all common areas, public places, places of employment, outdoor recreational public places and vehicles owned, leased or operated by the city.

Sec. 18-76. - Reasonable distance.

(a) Smoking shall be prohibited within:

(1) Twenty (20) feet of any outside entrance, operable window, or ventilation system of a common area, public place, place of employment, or outdoor recreational public place. This prohibition shall not apply to porches, courtyards or decks contiguous to a restaurant; or

(2) Twenty (20) feet of any service line.

(b) Smoking shall be allowed in the parking lots of a common area, public place, place of employment, or outdoor recreational public place, except in the following situations:

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- 892 (1) Smoking in such parking lots is prohibited if it occurs in an area of the parking lot that is within
893 twenty 20 feet of any outside entrance, operable window or ventilation system of a common area,
894 public place, place of employment, or outdoor recreational public place.
- 895 (2) Smoking is prohibited in the parking lots of a common area, public place, place of employment,
896 or outdoor recreational public place if the owner, operator, manager, employer, or other person
897 who controls the common area, public place, place of employment or outdoor recreational public
898 place has posted in the parking lots "No Smoking" signs that comply with the requirements of
899 this division.

900 Sec. 18-77. – Exemptions.

901 (a) The smoking prohibition shall not apply in the following areas:

- 902 (1) Private residences, including private residences which may serve as an office workplace, except
903 if used as a childcare, an adult daycare or a health care facility.
- 904 (2) Designated smoking rooms in hotels and motels rented by guests, provided that such designated
905 smoking rooms shall not comprise more than 25 percent of the total number of rooms available
906 for rent.
- 907 (3) Retail tobacco stores.
- 908 (4) Outdoor areas of places of employment, except where an owner or employer declares that the
909 outdoor area is a smoke-free environment, as provided in this article.
- 910 (5) Restaurants and bars as follows:
- 911 a. All restaurants and bars to which access is denied to any person under the age of 18 and
912 that do not employ any individual under the age of 18 years; or
- 913 b. Private rooms in restaurants and bars if such rooms are enclosed and have an air handling
914 system independent from the main air handling system that serves all other areas of the building
915 and all air within the private room is exhausted directly to the outside by an exhaust fan of
916 sufficient size.
- 917 (b) To qualify for exempt status under subsection (a) of this section, any area described in subsection
918 (a) of this section, except for areas described in paragraph (1) of subsection (a) of this section, shall post
919 conspicuously at every entrance a sign indicating that smoking is permitted.

920

921 Sec. 18-78. - Smoking prohibited in designated nonsmoking places

922 Notwithstanding any other provision of this article, an owner, operator, manager, or other person in
923 control of an establishment, facility, or outdoor area within the city may declare that entire establishment,
924 facility, or outdoor area as a nonsmoking place. Smoking shall be prohibited in any place in which a sign
925 conforming to the requirements of Sec. 18-80 is posted.

926

927 Sec. 18-79. - Employers' responsibility.

928 (a) It is the responsibility of employers to provide a smoke-free workplace for all employees of public
929 places, and places of employment but employers are not required to make expenditures or structural changes
930 to create a smoke-free work area.

931 (b) Each employer having an enclosed place of employment located within the city is encouraged to
932 adopt, implement, make known and maintain a written smoking policy that incorporates the smoking
933 prohibitions of this article.

(c) The written smoking policy should be provided to all employees.

Sec. 18-80. – Posting of signs and notification.

(a) At every entrance to every place where smoking is prohibited by this division, "No Smoking" signs or the international "No Smoking" symbol (consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it) shall be clearly and conspicuously posted by the owner, operator, manager, employer or other person having control of such building or area.

(b) In every area where smoking is prohibited by this division, all ashtrays shall be removed by the owner, operator, manager, employer or other person having control of the area.

Sec. 18-81. – Enforcement.

Any owner, operator or manager of any establishment regulated by this article shall inform persons whom they witness violate this division of the appropriate provisions, and request compliance.

Sec. 18-82. - Nonretaliation.

No person or employer shall discharge, refuse to hire or in any manner retaliate against any employee, applicant for employment, or customer because such employee, applicant, or customer exercises any right to a smoke-free environment as afforded by this article.

Sec. 18-83. - Violations and penalties.

(a) Any person who violates any provision of this article shall be subject to the following penalties:

(1) A fine not exceeding fifty dollars (\$50.00) for a first violation;

(2) A fine not exceeding seventy-five dollars (\$75.00) for a second violation of this division within one (1) year; and

(3) A fine not exceeding one hundred dollars (\$100.00) for each additional violation of this division within one (1) year.

(b) In addition to the fines established by this section, the violation of any provision of this article by an owner, operator or manager of any establishment regulated by this article may result in the suspension or revocation of any permit or license issued by the city for the premises on which the violation occurred.

(c) Each day on which a violation occurs shall be considered a separate and distinct violation.

Sec. 18-84. - Other applicable laws and disclaimer.

This article shall not be interpreted or construed to permit smoking where it is otherwise restricted by other applicable laws. By regulating smoking, the city is assuming an undertaking only to promote the general health and welfare of its citizens. By this enactment, neither the city, its officers nor its employees are liable in money damages to any person who claims that any breach of this division caused injury.

973

974 ARTICLE IX.- HOTELS, MOTELS AND EXTENDED STAY HOTELS.

975 Sec. 18-85. Purpose.

976 (a) The purpose of this article is to ensure the continued availability of quality transient lodging within
977 the City, proper maintenance of hotels, motels, and extended-stay hotels and to protect the health, safety
978 and welfare of hotel, motel, and extended-stay hotel inhabitants.

979 (b) Unless otherwise stated in this article, the requirements of this article apply to those who occupy,
980 visit, patronize, frequent, operate, keep, conduct, or own a hotel, motel, or extended-stay hotel within the
981 City, regardless of the date of the hotel, motel, or extended-stay hotel's construction.

982 (c) This article is essential to the public's interest, safety, health, and welfare, and this ordinance shall
983 be liberally construed to effectuate its purposes.

984 Sec. 18-86. Definitions.

985 "Bona fide employee" shall mean a person who works in the service of the hotel, motel, or extended
986 stay hotel (i.e. the employer) under a contract of hire, whether express or implied, where the employer has
987 the power or right to control or direct the details of what work is to be performed and the manner in which
988 that work is to be performed.

989 "Electronic records" shall mean the identifying information for all patrons and their guests contained
990 in the electronic guest registration system as listed in this article, which is recorded at the time of registration
991 and maintained for a period of no less than one hundred eighty (180) days after the rental agreement's
992 termination.

993 "Extended-stay hotel" shall, for the purpose of this article, mean any structure consisting of one or
994 more buildings, with more than five dwelling units with provisions for living, sanitation, and sleeping, that
995 is specifically constructed, kept, used, maintained, advertised, and held out to the public to be a place where
996 temporary residence is offered for pay (a) to persons for non-transient extended-stays and/or stays longer
997 than 30 days; or (b) for stays longer than 15 days in rooms equipped with kitchen facilities.

998 "Guest" shall mean a person who is not a patron who is present on the premises of a hotel, motel or
999 extended-stay hotel with the express permission of (a) a guest or patron of the hotel, motel or extended-stay
1000 hotel and (b) the owner, operator, keeper or proprietor of the hotel, motel or extended-stay hotel.

1001 "Hotel" or "motel" shall, for the purpose of this article, mean any structure consisting of one or more
1002 buildings, with more than five dwelling units with provisions for transient living, sanitation, and sleeping,
1003 that is specifically constructed, kept, used, maintained, advertised, and held out to the public to be a place
1004 where temporary lodging is offered for pay to guests, is not intended for long-term occupancy, and does
1005 not otherwise meet the definition of an extended-stay hotel as defined in this section. This shall include
1006 boutique hotels, as described in Chapter 27.

1007 "Housekeeping" shall mean the cleaning of guest rooms, guest bathrooms, public area, changing of
1008 linen and removal of trash from guest rooms and common areas.

1009 "Kitchen facilities" shall mean kitchen amenities, which at a minimum must include a stove, oven, and
1010 a kitchen-type sink. A bathroom sink does not qualify as a kitchen facility. Amenities limited to a
1011 microwave, mini-refrigerator, and/or an appliance designed to produce coffee or tea do not constitute
1012 "kitchen facilities" for purposes of this definition.

1013 "Loitering" is defined in Chapter 16 of this code.

1014 "Manual records" shall mean the identifying information for all patrons and their guests contained in
1015 the form of a paper record or reservation book as listed in this article, which is recorded at the time of

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1016 registration and maintained for a period of no less than one hundred eighty (180) days after the rental
1017 agreement's termination.

1018 "Patron" shall mean a person who pays a fee to the owner, operator, keeper or proprietor of the hotel,
1019 motel or extended-stay hotel.

1020 "Public nuisance" shall mean a condition, obstruction or use of property allowed or continued by any
1021 person, legal entity or agent, that interferes with the comfortable enjoyment of life and property by the
1022 neighborhood, community, or members of the public; or which can cause hurt, damage, inconvenience or
1023 affect or offend an ordinary, reasonable person.

1024 "Vehicle" is any car, truck, trailer, motorcycle, or other machinery used for transporting people or
1025 goods and is normally required to be registered with a state in order to be legally operated or towed on a
1026 public roadway.

1027 "Visitor" shall mean a person, who is not a patron or guest, who is on the premises of a hotel, motel or
1028 extended-stay hotel at the invitation of a patron or guest, but without the express permission of the owner,
1029 operator, keeper or proprietor of the hotel, motel or extended-stay hotel.

1030 Sec. 18-87. -Provisions applicable to hotels, motels, and extended-stay hotels.

1031 a) For any hotel, motel, or extended stay hotel permitted for construction after July 1, 2018 any public-
1032 facing entry points to the premises must require a magnetic or electronic keycard/locking device for access.
1033 Public facing entry point doors shall have operating automatic closures, key entry and shall remain locked
1034 at all times between the hours of 9:00 pm and 6:00 am. Additionally, all entry point doors shall be equipped
1035 with an alarm or other device that will alert hotel, motel, or extended-stay hotel security, attendants, or
1036 other employees that the door has been opened or remains open. These requirements are not applicable to
1037 entry points that enter directly into the lobby of the hotel, motel, or extended stay hotel as long as the lobby
1038 is manned by a bona fide employee 24 hours a day. These requirements are also not applicable to entry
1039 points that enter directly into a banquet hall, conference room, or other facility utilized for a special event
1040 or meeting hosted by a hotel, motel, or extended-stay hotel as long as there is a bona fide employee staffing
1041 the banquet hall, conference room, or other facility utilized for the duration of that event.

1042 b) Notwithstanding Sec. 18-88 and Sec. 18-89, an owner, operator, keeper or proprietor of a hotel,
1043 motel, or extended-stay hotel may designate no more than five (5) percent or six (6) (rooms, whichever is
1044 fewer, for the purpose of allowing any number of bona-fide employees and their family to reside on the
1045 premises. Rooms designated for employee residences must be clearly marked as distinct from rooms held
1046 out for rent and, where practical, must be located adjacent to other rooms designated for employee
1047 residences. Rooms designated for employee residences may not be held out for rent to the public.

1048 c) No owner, operator, keeper or proprietor of a hotel, motel, or extended-stay hotel shall provide
1049 lodging at an hourly rate.

1050 Sec. 18-88. -Provisions applicable to hotels and motels.

1051 a) No hotel or motel located within the City shall allow any person to occupy such hotel or motel for
1052 more than a one hundred eighty (180) day period. No guest residing for more than one hundred and eighty
1053 (180) consecutive days shall begin a new rental agreement with the hotel or motel without a two (2) day
1054 vacancy between stays.

1055 Sec. 18-89. -Provisions applicable to extended-stay hotels.

1056 a) No extended-stay hotel located within the City shall allow any person to occupy such extended-
1057 stay hotel for more than one hundred and eighty (180) consecutive days unless otherwise permitted in this
1058 section. No guest residing for more than one hundred and eighty (180) consecutive days shall begin a new
1059 rental agreement with the extended stay hotel without at least a two (2) day vacancy between stays.

b) Notwithstanding subsection (a) of section 18-88, a stay in excess of one hundred and eighty (180) consecutive days may occur in the following situations:

1) Where there is a written contract or documented agreement between an extended-stay hotel and a business, corporation, firm or governmental agency to house employees or individuals on valid work orders;

2) Where there is documentation, consistent with HIPPA privacy rules, that a hotel guest is considered family or is providing care for a patient who is admitted at local hospital; or

3) When an insurance company or federal, state or local agency has provided documentation that a hotel guest has been displaced from their home by a natural disaster or fire.

c) Extended-stay hotels are required to comply with all applicable provisions of this code, including but not limited to Chapter 27.

d) All extended-stay hotels constructed after July 1, 2018 must provide a minimum of one thousand (1,000) square feet in common areas for recreational use by guests. In computing the one thousand (1,000) square feet requirement, swimming pools, fitness or recreation centers, patios, terraces, and other recreational facilities in common areas may be used in determining the square footage required by this subsection. An extended-stay hotel is considered constructed only after a certificate of occupancy is issued.

Sec. 18-90. Responsibilities, access, and registration requirements.

(a) Every owner, operator, keeper or proprietor of any hotel, motel, or extended-stay hotel shall, without delay, report violations of law to the City or its designee that were either witnessed or made known to them by an employee, patron, guest, visitor or other person on the premises.

(b) Every owner, operator, keeper or proprietor of any hotel, motel, or extended-stay hotel shall, at all times, maintain a manager on duty capable of assisting, communicating, and cooperating with the City, code enforcement, police or other law enforcement officials in maintaining the public health, welfare, and safety.

(c) All information required to be procured and kept pursuant to this ordinance shall be kept strictly confidential in accordance with state and federal law and shall not be provided to any person except to a federal or state law enforcement officer or to any officer empowered to enforce this ordinance.

(d) All information required to be procured and kept pursuant to this ordinance shall be provided to any federal or state law enforcement officers, code enforcement officer, or local sworn enforcement officer empowered to enforce this ordinance, upon demand of the officer and a representation by said officer that a reasonable suspicion exists that such information is relevant to a then-pending inquiry or investigation. Nothing in this requirement shall be construed as giving any such officer any greater right or license to enter a room or invade privacy than the officer shall otherwise possess as a matter of law, probable cause, constitutional law, statutory right, or warrant.

(e) Every owner, operator, keeper or proprietor of any hotel, motel, or extended-stay hotel shall keep a record of all rental agreements between the hotel, motel, or extended-stay hotel and all patrons and their guests, and make these records available to the City within a reasonable time upon request. For the purposes of this section, the term "record" shall mean the hotel, motel, or extended-stay hotel's electronic guest registration system which stores guest identifying information. In the event the hotel, motel, or extended-stay hotel does not have an electronic guest registration system, the hotel, motel, or extended-stay hotel shall record the guest, patron and their guest's information in a paper record or reservation book. The following information, at a minimum, must be recorded at the time of registration and maintained for a period of no less than one hundred eighty (180) days after the rental agreement's termination:

(1) The full name, phone number, and home address of each patron and overnight guest. If the patron is a tourism company or other business, only the patron shall be required to provide this information;

(2) The total number of occupants (patrons and guests) registered in each room;

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- 1105 (3) The room number assigned to each patron and guest;
1106 (4) The day, month, year and time of arrival of each patron and guest;
1107 (5) The day, month, year each patron and each guest is scheduled to depart;
1108 (6) Upon departure, record of departure day, month, and year for each patron and guest;
1109 (7) The rate charged and amount collected for rental of the room;
1110 (8) The method of payment for each room; and
1111 (9) Documentation used to verify a stay in excess of one hundred and eighty (180) consecutive days
1112 as stated in Sec. 18-89(b).
- 1113 (f) Every owner, operator, keeper or proprietor of any hotel, motel, or extended-stay hotel shall require
1114 each patron to provide proper identification prior to renting a room when registering in person. Proper
1115 identification is defined as a current and valid government issued photo identification card such as a driver's
1116 license, military identification card, state identification card, or passport. A record of the provided
1117 identification shall be kept on file for the duration of the occupancy and for one hundred eighty (180) days
1118 thereafter.
- 1119 (g) Annually, the City shall provide every owner, operator, keeper or proprietor of any hotel, motel,
1120 or extended-stay hotel with a list of crimes and ordinance violations that occurred on the property in the
1121 previous year.
- 1122 (h) No person shall procure or provide lodging in any hotel, motel, or extended-stay hotel, or
1123 any services therefrom, through misrepresentation or production of false identification, or identification
1124 which misrepresents the identity of the person procuring or sharing in such lodging or service.
- 1125 (i) Change of location or name.
- 1126 (1) No applicant shall operate, conduct, manage, engage in, or carry on a hotel, motel, or extended-
1127 stay motel/hotel under any name other than his name and the name of the business as specified on the
1128 occupation tax certificate.
- 1129 (2) Any application for an extension or expansion of a building or other place of business where a
1130 hotel, motel, or extended-stay motel/hotel is located shall require inspection and shall comply with all
1131 applicable codes and regulations.
- 1132 Sec. 18-91. Vehicles, Parking, and Registration.
- 1133 (a) All handicap parking must be in compliance with state and local laws.
- 1134 (b) All vehicles parked on any hotel's premises must be in good working order.
- 1135 (c) Vehicle maintenance in hotel parking lots is prohibited.
- 1136
- 1137 Sec. 18-92
- 1138 (a) Every operator, owner, keeper, or proprietor of any hotel, motel, or extended-stay hotel shall keep
1139 and maintain in each and every rental unit, a telephone equipped to place a direct call to 911.
- 1140 (b) No operator, owner, keeper, or proprietor of any hotel, motel, or extended-stay hotel shall rent or
1141 provide a room for any number of persons greater than the sleeping accommodations provided within the
1142 particular rental unit or temporary sleeping accommodations provided by the hotel, motel, or extended-stay
1143 hotel.

(c) No operator, owner, keeper, or proprietor, patron, visitor or guest of any hotel, motel, or extended-stay hotel shall be allowed to congregate within any room or single rental unit a number of persons which is greater than two (2) times the number of persons for whom sleeping accommodations are provided within the single room or rental unit except when temporarily designated as a hospitality suite by the hotel, motel, or extended-stay hotel.

(d) Daily housekeeping shall be included within the standard room rate of any hotel, motel, or extended-stay hotel. At a minimum, rooms must be cleaned before each new guest checks in and no less frequently than once every seven (7) days. Each hotel, motel, and extended-stay hotel must maintain a log that documents when each room is cleaned. The log must be maintained for one hundred and twenty (120) days for extended-stay hotels and must be maintained for thirty (30) days for hotels and motels. Any hotel, motel, or extended-stay hotel must make these records available to the City within a reasonable time upon request.

(e) The utilization of clothes-lines or other clothes-drying equipment or facilities outside of a room that are located on or are visible from the outside of a room are prohibited. Balconies and railings are not to be used for hanging towels, personal items or any other articles of clothing.

(f) No occupational tax certificate shall be issued for the purpose of conducting business from a guest room of a hotel, motel, or extended-stay hotel, and no home occupation shall be conducted from such room.

(g) Each existing and newly constructed guest room of a hotel, motel, or extended-stay hotel in existence as of July 1, 2018 of this article shall, at a minimum, be brought into compliance, within three (3) years of the date of the effective date of this ordinance, with sprinkler requirements for new construction set forth in NFPA 101, 2012 edition. The fire marshal shall provide notice to the building owner or agent of any hotel or dormitory that is not in compliance with NFPA 101, 2012 edition. Within sixty (60) days of receiving such notice of noncompliance, the building owner or agent of such owner shall file an intent to comply with this requirement with the fire marshal. Unless otherwise noted, it is intended that the provisions of this section be applied to new as well as existing facilities, equipment, structures, or installations that are approved for construction or installation prior to the effective date of this document. Existing facilities, equipment, structures, or installations will have three (3) years from July 1, 2018 to comply with the provisions of this section. The following extensions and exemptions to this requirement shall apply:

(1) Hotels, motels, or extended-stay hotels in existence as of July 1, 2018 may receive up to a two (2) year extension at the discretion of the Director of the Community Development Department based on submitted plans for the installation of the approved supervised Sprinkler System. An affidavit shall be submitted to the fire marshal within sixty (60) days of the end of the three (3) year period, certifying that the premise is in compliance with the following regulation:

(A) No kitchen facilities are installed or operated within any dwelling unit. Microwaves are allowed.

(2) Automatic sprinkler protection shall not be required in buildings where all guest sleeping rooms or guest suites have a door opening directly to either of the following:

(A) Outside at the street or the finished ground level

(B) Exterior exit access arranged in accordance with NFPA 101:7.5.3 in buildings three or fewer stories in height

(3) NFPA 101: 7.5.3 Exterior Ways of Exit Access.

(A) 7.5.3.1 Exit access shall be permitted to be by means of any exterior balcony, porch, gallery, or roof that conforms to the requirements of this chapter.

(B) 7.5.3.2 The long side of the balcony, porch, gallery, or similar space shall be at least fifty (50) percent open and shall be arranged to restrict the accumulation of smoke.

1187 (C) 7.5.3.3 Exterior exit access balconies shall be separated from the interior of the building
1188 by walls and opening protectives as required for corridors, unless the exterior exit access balcony is served
1189 by at least two remote stairs that can be accessed without any occupant traveling past an unprotected
1190 opening to reach one of the stairs, or unless dead ends on the exterior exit access do not exceed twenty (20)
1191 ft. (6100 mm).

1192 (h) Each new and existing guest room of a hotel, motel, or extended-stay hotel shall be equipped with
1193 a hard wired smoke detector or smoke alarms whose device housing is tamper-resistant and is powered by
1194 a non-replaceable, non-removable energy source capable of powering the alarm for a minimum of ten years
1195 from the manufacture's date on the device. All smoke detectors or alarms must be installed and approved
1196 by the Fire Marshal within one hundred and eighty (180) days after July 1, 2018.

1197 (i) All new Hotels, Motels and Extended Stay Hotels must have in place Laundry facilities consisting
1198 of washer and dryer machines which shall be made available to patrons for a fee. This equipment shall be
1199 maintained and in good repair at all times. Laundry supplies (detergent, softener, etc.) may also be made
1200 available to patrons for a fee. Washers and dryers should be provided at a ratio of one washer and dryer for
1201 every one hundred and fifty (150) rooms. For existing hotels, motels and extended-stay hotels, Laundry
1202 equipment must be installed and in working conditions within one hundred and eighty (180) days after July
1203 1, 2018.

1204 Sec. 18-93. Common area requirements and parking illumination.

1205 (a) The open parking area and all areas surrounding any building or proposed building being a hotel,
1206 motel, or extended-stay hotel shall have an average maintained foot-candle intensity of at least one (1) foot-
1207 candle with a minimum allowable intensity of three-tenths of a foot-candle. The covered parking area of
1208 any hotel, motel, or extended-stay hotel shall have an average maintained foot-candle intensity of five-
1209 tenths of a foot-candle.

1210 (b) Any hotel, motel, or extended-stay hotel must provide and maintain security in its parking area.
1211 This shall include one or more of the following: live patrol guard, security fencing that is decorative and
1212 consistent with the zoning code, or other security measures approved in writing by the city to meet the
1213 minimum security standards required by this code section. All hotels, motels, or extended-stay hotels must
1214 maintain a security plan which shall include all implemented security measures. Security Plans and
1215 documentation for approved alternative security measures shall be kept on file and made available to the
1216 City within a reasonable time upon request.

1217 Sec. 18-94. Smoking.

1218 (a) Smoking is prohibited in all hotel, motel, or extended-stay hotel rooms with the exception of
1219 designated smoking areas.

1220 (b) Smoking is prohibited except in designated smoking areas. Smoking is expressly prohibited in
1221 exterior breezeways, stairwells, or within twenty-five (25) feet of any guest room or doors used for ingress
1222 or egress.

1223 Sec. 18-95. Video Surveillance Systems.

1224 (a) For the purpose of this section, "Video Surveillance System" (VSS) means a continuous digital
1225 surveillance system including cameras, cabling, monitors, and digital video recorders (DVR).

1226 (b) Every owner, operator, keeper or proprietor of any new or existing hotel, motel, or extended-stay
1227 hotel is required to install a VSS within one hundred and eighty (180) days of July 1, 2018. All hotels,
1228 motels, and extended-stay hotels, which have installed a VSS prior to the effective date of this ordinance,
1229 shall ensure said systems are in full compliance with this section and request an approval assessment from
1230 the City within one hundred and eighty (180) days of the effective date of this ordinance.

(c) All VSS shall be maintained in proper working order at all times, be kept in continuous operation 24 hours a day, 7 days a week, and meet the minimum technological standards established in this section. The hotel, motel, or extended-stay hotel shall retain the continuous digital images recorded by this system for no less than twenty-one (21) days.

(d) All VSS shall have no less than one camera dedicated to each register or check-out stand, entrance/exit, interior hallway and lobby, swimming pool area, exercise facility, loading dock, and parking lots or areas designated for customer and/or employee parking use. The placement of cameras included in VSS required under this section must be approved by the city. The city will conduct an assessment of each site required to install a VSS prior to installation of said system, and upon approval will issue an approval notice which will be placed in plain view inside the common area of the hotel, motel, or extended-stay hotel. This approval notice will also inform customers and employees of the presence of the VSS. Existing VSS at any hotel, motel, or extended-stay hotel as of the effective date of this ordinance will be evaluated to ensure full compliance with this section.

(e) The VSS shall be subject to regular inspection by the city, who is authorized to inspect any such System, at reasonable times to determine whether it conforms to this section. If the VSS does not conform, the hotel, motel, or extended-stay hotel, in question, shall take immediate steps to bring the system back into compliance.

Sec. 18-96. Loitering and Juvenile Curfew.

(a) All hotel, motel, or extended-stay hotel operators will advise patrons and guests verbally, upon registration, and through posted signage that loitering is prohibited.

(b) No person(s) shall loiter in or upon any hotel, motel, or extended-stay hotel parking lot, public parking structure or in or around any building to include breezeways, stairwells or hotel, motel, or extended-stay hotel rooms either on foot or in or upon any conveyance being driven or parked thereon, without the permission of the owner, operator, keeper or proprietor or the hotel, motel, or extended-stay hotel.

(c) The common areas of a hotel, motel, or extended-stay hotel shall be considered an "establishment" as that term is defined in Chapter 16.

(d) Chapter 16, of this Code, related to juvenile curfew and loitering shall be enforced in the common areas of a hotel, motel, or extended-stay hotel.

Sec. 18-97. Violations and penalties.

(a) The objective of enforcement is compliance.

(b) Any violation of the provisions of this article shall be punishable under Chapter 1 of this code. Any person or entity violating the provisions of this article shall be guilty of a separate offense for each and every day during which any violation of any provision of this article is committed, continued, or permitted by that person and shall be punished accordingly.

(c) The violation of the provisions of this article may be abated as a nuisance.

(d) The violation of all provisions of this article by any person may be enjoined by instituting appropriate proceedings for injunction in any court of competent jurisdiction. Such actions may be maintained notwithstanding that other adequate remedies of law exist. Such actions may be instituted in the name of the City of Stoncrest.

(e) If a person is convicted of a violation of this article, the court shall impose a fine in accordance with the following schedule:

a. First conviction in a calendar year: a minimum of \$250;

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b. Second conviction in a twelve (12) month period measured from the date of the first conviction: a minimum of \$500;

c. Third conviction in a twelve (12) month period measured from the date of the first conviction: a minimum of \$750; and

d. Fourth conviction in a twelve (12) month period measured from the date of the first conviction: a minimum of \$1000.

Sec. 18-98. Responsibility for enforcement.

(a) City employees and their designees shall have the responsibility for the enforcement of this section and shall have the authority to inspect establishments governed under this section during the hours in which the premises are open for business.

(b) These inspections shall be made for the purpose of verifying compliance with the requirements of this section and state law.

Sec. 18-99. Right of Entry.

(a) When there is probable cause to make an inspection to enforce the provisions of this article, or whenever there is reasonable cause to believe that there exists a condition in violation of this code, personnel identified in Sec. 18-98 of this code are authorized to enter the structure or premises, including individual rooms, at reasonable times to inspect or perform the duties imposed by this Code.

(b) If such structure or premises is occupied, City personnel shall present credentials to the occupant and request entry. If entry is refused by occupant, City personnel shall have recourse to the remedies provided by law to secure entry. If such structure or premises is unoccupied, City personnel shall first make a reasonable effort to locate the owner or other person having charge or control of the structure or premises and request entry. If entry is refused by the owner or the person having charge or or control of the structure refuses entry, City employees shall have recourse to all methods of entry allowed by law, and the owner and responsible party shall be in violation of this article and subject to punishment under Chapter 1 of this Code.

Sec. 18-100. Unlawful operation declared nuisance.

Any hotel, motel, or extended-stay hotel operated, conducted or maintained contrary to the provisions of this article may be declared to be unlawful and a public nuisance. The City may, in addition, or in lieu of all other remedies, commence actions or proceedings for abatement, removal or injunction thereof, in the manner provided by state law and this Code.

ARTICLE X. - GAMBLING

DIVISION 1. - GENERALLY

Sec. 18-101. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

“Pool” or “billiards” includes any game played on a table surrounded by an elastic ledge of cushions with balls which are impelled by a cue. “Poolroom” means any public place where a person is permitted to play the game of pool or billiards.

Sec. 18-102. - Applicability.

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O.C.G.A. title 43, ch. 8 (O.C.G.A. § 43-8-1 et seq.) does not apply within the city. The provisions of this article govern the operation of poolrooms within the city.

Sec. 18-103. - Inspection of licensed establishments.

The City or its designee may inspect establishments licensed under this article during the hours in which the premises are open for business. Such inspection shall be made for the purpose of verifying compliance with the requirements of this article.

Sec. 18-104. - Gambling.

No gambling or other games of chance shall be permitted in a poolroom.

Sec. 18-105. - Manager.

All poolrooms which have three or more pool tables shall have a manager, or designated employee, on duty during operating hours, whose responsibility is the operation of the pool tables.

Sec. 18-106. - Drug and illegal gambling houses, houses of prostitution and other disorderly houses.

(a) Any dwelling, building, or structure used for prostitution, illegal gambling, or in connection with the commission of drug crimes is hereby declared to be a public nuisance. However, consistent with state public policy, this chapter shall not apply to any publicly owned cultural facility pursuant to O.C.G.A. § 41-1-8.

(b) It is the affirmative duty of the owner of every dwelling, building, or structure within city to construct and maintain such dwelling, building, or structure in conformance with applicable codes under state law, and all ordinances in force within the city.

(c) An owner or party-in-interest of a dwelling, building or structure shall not be subject to proceedings described in subsection (e) of this section if it is established that the owner or party-in-interest: (1) Did not know and could not reasonably have known of the public nuisance described in subsection (a) of this section occurring on the subject premises; (2) Does not hold the subject property for the benefit of or as nominee for any person whose conduct gave rise to the public nuisance described in subsection (a) of this section, and, if the owner or party-in-interest acquired the interest through any such person, the owner or party-in-interest acquired it as a bona fide purchaser for value without knowingly taking part in the public nuisance; or (3) Acquired ownership or legal interest after the completion of the public nuisance giving rise to proceedings under this chapter or at the time the title was acquired, was reasonably without cause to believe that the dwelling, building or structure was subject to be deemed a public nuisance or likely to become subject to being deemed a public nuisance under this chapter.

(d) The Director of the Community Development Department or his or her designee shall have all powers to carry out and effectuate the purpose of this chapter as set forth in O.C.G.A. § 41-2-11 as a public officer.

(e) The public officer shall make an investigation or inspection of a dwelling, building, or structure whenever a charge is made that any dwelling, building, or structure is unfit for human habitation or for commercial, industrial, or business use and not in compliance with applicable codes; is vacant and being used in connection with the commission of activities described in subsection (a) of this section; or constitutes an endangerment to the public health or safety as a result of unsanitary or unsafe conditions. If the public officer's investigation or inspection identifies that any dwelling, building, or structure is unfit for human habitation or for commercial, industrial, or business use and not in compliance with applicable codes; is vacant and being used in connection with the commission of activities described in subsection (a) of this section; or constitutes an endangerment to the public health or safety as a result of unsanitary or unsafe conditions, the public officer may either:

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(1) Issue a citation for violation of any applicable state minimum standard codes, building, fire, life safety, and other codes adopted by ordinance, and conditions creating a public health hazard or general nuisance. The citation shall notify the owner and parties of the violation and a time frame for compliance; and

(2) Issue a complaint in rem against the lot, tract, or parcel of real property on which such dwelling, building, or structure is situated or where such public health hazard or general nuisance exists and shall cause summons and a copy of the complaint to be served on the owner and parties in interest in such dwelling, building, or structure pursuant to the procedures in Chapter 7.

Section 2:

1. It is hereby declared to be the intention of the Mayor and City Council that all sections, paragraphs, sentences, clauses and phrases of this Ordinance are and were, upon their enactment, believed by the Mayor and City Council to be fully valid, enforceable and constitutional.

2. It is hereby declared to be the intention of the Mayor and City Council that, to the greatest extent allowed by law, each and every section, paragraph, sentence, clause or phrase of this Ordinance is severable from every other section, paragraph, sentence, clause or phrase of this Ordinance. It is hereby further declared to be the intention of the Mayor and City Council that, to the greatest extent allowed by law, no section, paragraph, sentence, clause or phrase of this Ordinance is mutually dependent upon any other section, paragraph, sentence, clause or phrase of this Ordinance.

3. In the event that any phrase, clause, sentence, paragraph or section of this Ordinance shall, for any reason whatsoever, be declared invalid, unconstitutional or otherwise unenforceable by the valid judgment or decree of any court of competent jurisdiction, it is the express intent of the Mayor and City Council that such invalidity, unconstitutionality, or unenforceability shall, to the greatest extent allowed by law, not render invalid, unconstitutional or otherwise unenforceable any of the remaining phrases, clauses, sentences, paragraphs or sections of the Ordinance and that, to the greatest extent allowed by law, all remaining phrases, clauses, sentences, paragraphs and sections of the Ordinance shall remain valid, constitutional, enforceable, and of full force and effect.

4. All ordinances or resolutions and parts of ordinances or resolutions in conflict herewith are hereby expressly repealed.

5. The within ordinance shall become effective upon its adoption.

6. The provisions of this Ordinance shall become and be made part of The Code of the City of Stonecrest, Georgia, and the sections of this Ordinance may be renumbered to accomplish such intention.

SO ORDAINED AND EFFECTIVE this the ____ day of _____, 2018.

Approved:

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COUNTY OF DEKALB
CITY OF STONECREST

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1413 Attest:

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1416

1417 Brenda James, City Clerk

Jason Lary, Sr., Mayor

As to form:

City Attorney



CITY COUNCIL AGENDA ITEM

SUBJECT: An Ordinance to Amend Chapter 15 Business Licenses to add Article VII, XI, XIII and IVII in the City of Stonecrest

☒ **ORDINANCE** ☐ **POLICY** ☐ **STATUS REPORT**
☐ **DISCUSSION ONLY** ☐ **RESOLUTION** ☐ **OTHER**

Date Submitted: 04/03/2018 **First Read** 05/21/2018 **Council Meeting:** 06/06/2018

SUBMITTED BY: City Attorney

PURPOSE: This ordinance is to amend Chapter 15 Business Licenses to add Articles VII, XI, XIII and IVII

HISTORY:

FACTS AND ISSUES:

OPTIONS:

RECOMMENDED ACTION: Second Read and Adoption of the Ordinance

AN ORDINANCE OF THE CITY OF STONECREST, GEORGIA,
AMENDING CHAPTER 15 – BUSINESS LICENSES
TO ADD ARTICLES VII, XI, XIII, and XVIII, and XIX.

WHEREAS, the Georgia Revenue and Taxation Code (O.C.G.A. § 48-13-1 et al.) regulates Specific, Business, and Occupation Taxes in the State of Georgia; and

WHEREAS, Pursuant to Section 1.03(b)(4) of the Charter of the City of Stonecrest, Georgia, the City of Stonecrest (the “City”) has been vested with substantial powers, rights, and functions to levy and provide for the collection of regulatory fees and taxes on privileges, occupations, trades, and professions as authorized by the Georgia Revenue and Taxation Code; and

WHEREAS, Pursuant to Section 1.03(b)(12) of the Charter of the City of Stonecrest, Georgia, the City of Stonecrest (the “City”) has been vested with substantial powers, rights, and functions to define, regulate, and prohibit acts, practice, conducts, or use of property which is detrimental to the health, safety, and welfare of its citizens; and

WHEREAS, it is the intent of the Mayor and Counsel, in enacting this ordinance to improve the safety and welfare of its citizens through the certification and regulation of certain professions;

WHEREAS, the City recognizes its constitutional duty to interpret and construe its laws and ordinances to comply with constitutional requirements as they are announced; and

WHEREAS, with the passage of any ordinance, the Mayor and City Council accept as binding the applicability of general principles of criminal and civil law and procedure and the rights and obligations under the United States and Georgia Constitutions, Georgia Law, and the Georgia Rules of Civil and Criminal Procedure;

WHEREAS, it is the intent of the Mayor and Council, in enacting this ordinance, to improve the quality of life and economic vitality of the City of Stonecrest, Georgia, and to protect the safety of the general public against certain abusive conduct of persons engaged in solicitation and vending, by imposing reasonable time, manner, and place restrictions on solicitation while respecting the constitutional rights of free speech for all citizens; and

WHEREAS, the Mayor and City Council hereby find that regulating and/or defining certain businesses, as set forth both below, will further the goals set forth in the Charter

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and protect the public health, safety, and welfare of the citizens and visitors of the City.

THEREFORE, the Mayor and City Council of the City of Stonecrest, Georgia, hereby ordain as follows:

Section 1: The Code of the City of Stonecrest, Georgia, is hereby amended by adding an Article VII, that reads as follows:

ARTICLE VII. - PEDDLERS, DOOR-TO-DOOR SALES AND SIMILAR OCCUPATIONS

Sec. 15.7.1. - Definition.

Residence means and includes every separate living unit occupied for residential purposes by one or more persons, contained within any type of building or structure.

Canvassing and/or Soliciting means and includes any one or more of the following activities:

- (a) Seeking to obtain orders for the purchase of goods, wares, merchandise, foodstuffs, services of any kind, character or description whatever, for any kind of consideration whatever;
- (b) Seeking to obtain prospective customers for application or purchase of insurance of any type, kind or publication;
- (c) Seeking to obtain donations or charitable contributions; or
- (d) Seeking to obtain subscriptions to books, magazines, periodicals, newspapers and every other type or kind of publication.

Sec. 15.7.2. -- Exemptions Permit Required.

It shall be unlawful for any person to engage in business as a canvasser or solicitor, calling on the residences within the incorporated areas of the city for the purpose of soliciting orders, sales, subscriptions, or business of any kind, without first registering with the City Manager or his designee and paying the appropriate regulatory fee.

~~(a) Persons, businesses and organizations exempted from local regulation by operation of state or federal law, or by the Constitution of the United States, or of the state, are exempt from the requirements of this article.~~

~~(b) Any sales representative who calls upon prospective customers at their prior invitation shall be treated as exempt from the provisions of division 2 of this article.~~

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~~(e) Representatives or agents of charitable or nonprofit corporations registered with the secretary of state, or tax-exempt organizations which have been recognized as such by the Internal Revenue Service of the United States Treasury Department, shall be treated as exempt from the provisions of division 2 of this article, provided that such organization first supplies proof of the recognized status to the City Manager or his designee, and has received from written confirmation of its exempt status from the City of Stonecrest. The organization shall then furnish each of its agents or representatives with a copy of the confirmation letter.~~

Sec. 15.7.3. - Violation of other ordinances and lawsApplication.

(a) Each registrant shall furnish, on a form developed by the City Manager or his designee, at least his/her name and permanent address, his/her signature, the name and address of his/her employer, the nature of products sold or displayed, and the proposed method of operation within the city. Each registrant shall be fingerprinted and photographed by the City Manager or his designee.

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(b) The questionnaire form shall also bear the following statement:

"Georgia Code section 16-10-71 provides that a person who makes a lawful oath or affirmation or who executes a document knowing that it purports to be an acknowledgment of a lawful oath or affirmation commits the offense of false swearing when, in any matter or thing other than a judicial proceeding, he knowingly and willfully makes a false statement."

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(a) It is unlawful for any person while engaging in any activity for which a permit is required by this article to:

(1) Violate any city ordinance.

(2) Violate any criminal law of this state, or violate any state or federal consumer protection law.

(b) In this section "consumer protection law" includes the Fair Business Practices Act of 1975, O.C.G.A. tit. 10, ch. 1, pt. 2 [§ 10-10-390 et seq.], O.C.G.A. tit. 43, ch. 17 [§ 43-17-1 et seq.] and the Federal Consumer Credit Protection Act (truth-in-lending and truth-in-leasing).

Sec. 15.7.4. - Hours of operationRegulatory fee.

The City Manager or his designee shall collect a fee of one hundred dollars (\$100.00) for each registration. Upon approval, a registration card will be issued showing the name of the firm or corporation and the name of the representative. Such registration shall be valid for ninety (90)

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days from the date of issuance. The registration may be renewed during the same calendar year for an additional ninety-day period without another investigation or additional fees.

It is unlawful for any person to engage in any of the conduct for which a permit is required by this article between the hours of 9:00 p.m. and 9:00 a.m., according to the standard time in effect.

Sec. 15.7.5. — Restriction on number of persons soliciting Identity Cards.

Each registrant shall be issued an identity card bearing his/her name and photograph, the company name, and the expiration date of the registration. Each solicitor must carry such identity card at all times while soliciting or canvassing within the city and shall display such card to each customer and upon appearance at each residence and/or business establishment canvassed or solicited.

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It is unlawful for more than two (2) individuals to engage in solitation upon any premises at the same time. Each individual member of a group engaged in solitation in violation of this provision shall be deemed to have violated this section.

Sec. 15.7.6. — Persons with criminal records Hours of operation.

(a) It is unlawful for any person with a criminal record as described in section 15.32, whether or not otherwise eligible for an exemption under section 15.7.2, to engage in any of the activities for which a permit is required by this article. Soliciting or canvassing on the public streets, areas, or parks of the city shall be conducted only between the hours of 9:00 a.m. and 7:00 p.m.

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(b) Soliciting or canvassing or calling from house to house within the incorporated areas of the city shall be conducted only between the hours of 9:00 a.m. and 6:00 p.m.

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Sec. 15.7.7. — Frequency of solicitation of same premises Restriction on number of persons soliciting.

The number of solicitors or canvassers in the city for any single firm, corporation, or organization shall not exceed five (5) in number at any one (1) time. It is unlawful for any person to make more than one (1) solicitation call at the same premises for identical goods or services within any consecutive two-week period, without receiving a prior invitation therefor from the occupant of any such premises. This section includes solicitation upon the same premises by employees, agents or representatives of any person more than once during such period without a prior invitation.

Sec. 15.7.8. ~~— Solicitation to be at main entrances~~Identification to prospective customers.

Prior to any solicitation of funds within the city, each canvasser or solicitor shall identify the organization which he represents. Additionally, each canvasser or solicitor must inform each person solicited of any minimum payment, deposit, or donation required for the acceptance of any merchandise, wares, goods, or any similar items provided by each canvasser or solicitor prior to such acceptance by each person solicited.

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It is unlawful for any person to solicit or attempt to solicit at a place of residence at any entrance or part of the building other than the main entrance to the residence.

Sec. 15.7.9. ~~— Announced purpose of call~~Fraud, etc..

It shall be unlawful for a canvasser or solicitor to perform any of the following acts:

- (a) ~~Falsely represent, either directly or by implication, that funds being solicited are on behalf of any person other than the person registered with the City Manager or his designee;~~
- (b) ~~Without the express prior permission of an occupant or property owner, to solicit at any residence, apartment complex, or shopping center, other than areas open to public parking, where a sign has been posted prohibiting such solicitation;~~
- (c) ~~To remain on private premises after being asked to leave the premises or to continue solicitation after being refused upon the public streets, areas, or parks; such action shall constitute harassment; or~~
- (d) ~~To solicit or canvass on any private premises upon which is displayed a sign, plaque or other posting declaring "No Soliciting" or other similar prohibition.~~

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At each dwelling, whether it is an apartment unit or private residence, the solicitor shall inform the occupant in unambiguous terms of the purpose of the call and shall not represent that the solicitor is participating in any contest, game or other competitive endeavor, or that the solicitor is offering the occupant an opportunity to participate in any such contest, game or endeavor.

Sec. 15.7.10. - ~~Identification to prospective customers~~Exceptions.

- (a) ~~Any person desiring to solicit or canvass upon the public streets, areas, or parks, or call from house to house within the incorporated areas of the city for the purpose of raising funds or seeking donations for any religious, charitable, or eleemosynary organization shall register with and obtain a license from the city.~~
- (b) ~~Such person on a form developed by the City Manager or his designee, at least:~~
 - (1) ~~Applicant's name and permanent address;~~
 - (2) ~~Name, address, and telephone number of the firm, corporation, or organization represented;~~

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(3) Names and addresses of all persons canvassing or soliciting within the city;

(4) The nature of any merchandise or goods to be sold or offered for sale in conjunction with such solicitation; and

(5) Proof of tax-exempt status shall be required when registering with City Manager or his designee.

i. The City Manager or his designee shall collect a fee of one dollar (\$1.00) from each organization to cover costs of processing the license.

ii. Each organization shall be issued an identity card bearing the name of each individual who shall engage in solicitation or canvassing on behalf of the organization, the organization's name, and the expiration date of the license. Each applicant does not have to be fingerprinted or photographed.

iii. The license shall be valid for ninety (90) days from the date of issuance.

~~It is unlawful for any person, at the time of initial contact with a respective customer, to fail to verbally identify himself for the purpose of the solicitation, and the company and product line represented.~~

~~Sec. 15.7.11. -- Fraud, etc.~~ License revocation.

Any license issued under this article may be suspended and/or revoked by the City Manager or his designee due to any violation of any ordinance or resolution of the city, county, or of any state or federal law, or whenever the license holder shall cease to possess the qualifications and character required in this article for the original application.

(a) It is unlawful for any person engaged in solicitation to misrepresent the purpose of the solicitation or use any false or deceptive statements or any misrepresentation to induce a sale or contribution, or use any plan, scheme or ruse which misrepresents the status or purpose of the person making the call.

(b) It is unlawful for any person to knowingly submit a false application under Division 2 of this Chapter.

~~Secs. 15.7.12 -- Activity not regulated hereby -- 15.7.25. Reserved.~~

~~This section is not intended to, nor shall it operate to, regulate door-to-door visitation for the following purposes: political canvassing or religious canvassing, provided that such canvassing does not include the soliciting of orders, sales, subscriptions or business of any kind.~~

DIVISION 2. -- PERMIT

Sec. 15.7.2613. - Required Penalty.

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(a) ~~Any person engaged in or desiring to engage in any type of selling, soliciting, canvassing, survey making or any other business, occupation or vocation, which by its nature requires going from door to door or house to house in the residential areas of the incorporated areas of the city, whether on a temporary or a permanent basis, except those exempted in Sec. 15.7.2 of this chapter, shall obtain a solicitor's permit from the City Manager or his designee. Any person violating any of the provisions of this article shall, upon conviction or entering a plea of guilty or nolo contendere in the Stonecrest Municipal Court, shall be punished pursuant to Chapter 16 of this Code.~~

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(b) ~~Continued violation of the provisions of this article may be enjoined by instituting appropriate proceedings for injunction in a court of competent jurisdiction of this state. Such actions may be maintained notwithstanding that other adequate remedies at law may exist. Remedies contained in this article are meant to be cumulative in nature.~~

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~~Sec. 15.7.27. Application.~~

(a) ~~Questionnaire.~~ The City Manager or his designee shall prepare a questionnaire requiring pertinent information regarding the physical description, identity, and background of each applicant for a permit, to include the following:

- (1) ~~Name, local address and telephone number.~~
- (2) ~~Date and place of birth.~~
- (3) ~~Driver's license number and issuing state.~~
- (4) ~~Social Security number (if different from driver's license number).~~
- (5) ~~Race and sex.~~
- (6) ~~Height and weight.~~
- (7) ~~Eye color and hair color.~~
- (8) ~~Name, address and telephone number of the organization represented.~~
- (9) ~~Name and telephone number of immediate supervisor.~~
- (10) ~~Product or service.~~
- (11) ~~A list of all arrests, convictions and the disposition of each charge, other than minor traffic violations.~~

(b) ~~The questionnaire form shall also bear the following statements:~~

~~"Georgia Code section 16-10-71 provides that a person who makes a lawful oath or affirmation or who executes a document knowing that it purports to be an acknowledgment of a lawful oath or affirmation commits the offense of false swearing~~

when, in any matter or thing other than a judicial proceeding, he knowingly and willfully makes a false statement."

Sec. 15.7.28. - Investigation and issuance.

(a) Upon filing of an application for a solicitor's permit, the City Manager or his designee shall review the application for the purpose of ascertaining whether the applicant has plead to, or has been convicted of, a felony, or a misdemeanor involving violence or moral turpitude. After ascertaining that the application has been properly completed, and that the applicant has not been disqualified by virtue of prior pleas of conviction, the City Manager or his designee shall approve the application.

(b) In any case in which it appears to the City Manager or his designee that a solicitor's permit should not be issued to an applicant, the City Manager or his designee shall so inform the applicant, and upon the applicant's request, shall furnish the applicant with a reasonably detailed written statement of the reasons why the permit will not be issued.

(c) Following approval of the permit application and prior to issuance of a permit, the applicant shall obtain a business license and pay the required license fee.

(d) Upon payment of the business license fee, the applicant shall receive from the City Manager or his designee a copy of the license application, which the applicant shall then carry to the City Manager or his designee. Upon payment by the applicant of a fee in the amount established by action of City Council, a copy of which is on file in the office of their clerk, the City Manager or his designee shall photograph the applicant and provide the applicant with a permit bearing the applicant's photograph, name, and organization, and identifying the applicant as a solicitor.

Sec. 15.7.29. - Expiration and renewal.

Each solicitor's permit shall indicate thereon an expiration date which is one (1) year from the date of issue. Application for renewal may be made at any time following the sixtieth day preceding the date of expiration.

Sec. 15.7.30. - Selling, renting, etc.

It is unlawful for any person to lend, rent or sell a solicitor's permit card to another.

Sec. 15.7.31. - Display.

The City Manager or his designee shall furnish to each holder of a solicitor's permit a device suitable for attaching the permit card to the outer clothing. No person shall act as a solicitor without wearing and displaying the permit in a conspicuous manner. Such a person shall display such identification to any authorized person or potential customer upon request.

Sec. 15.7.32. - Denial, suspension or revocation.

(a) No solicitor's permit shall be issued to any person who has been found guilty of any misdemeanor involving violence or moral turpitude any time within five (5) years prior to the date of application, nor shall a permit be issued to any person convicted of a felony, except that a permit may be issued to a convicted felon if it appears that such person either has been pardoned, or that such person has been free from any legal restriction for a period of five (5) or more years prior to the date of application. In this section "conviction" and "found guilty" include verdicts or pleas of guilty, entered by a court of this state, a court of any sister state, or any federal district court. Any permit issued as the result of willful false statements or omissions in the solicitor's application for the permit shall be deemed null and void from the time of its issue.

(b) The permit of any solicitor charged with a felony, or a misdemeanor involving violence or moral turpitude shall be deemed suspended from the time of lawful arrest, formal accusation or indictment, whichever shall first occur; such suspension shall remain in effect until the solicitor is convicted or acquitted, or until the charge is dismissed, dead-docketed, not pressed or no-billed.

(c) The permit of any solicitor who is convicted of a felony, or of a misdemeanor involving moral turpitude or violence, shall be deemed revoked from the time of such conviction. The permit of any solicitor convicted of having violated any provision of this article after issuance of the permit shall be deemed revoked from the time of such conviction.

(d) Any suspension or revocation occurring pursuant to the provisions of this article shall be effective by operation of law, whether or not any formal notification to the solicitor is given or received.

(e) It is unlawful for any person to act as a solicitor while such person's permit has been suspended or after it has been revoked.

Sec. 15.7.33. — Surrender.

Each solicitor's permit shall remain the property of the city. Each permit holder shall surrender the permit card to the City Manager or his designee no later than three (3) business days following the expiration, suspension or revocation of the permit or upon the demand of the City Manager or his designee, whichever occurs first.

Sec. 15.7.34. — Appeals.

A person to whom the city refuses to issue a solicitor's permit or whose solicitor's permit is suspended or revoked may file an appeal therefrom in accordance with Article XVI of this Chapter.

Secs. 15.7.35 — 15.7.50. — Reserved.

Section 2:

The Code of the City of Stonecrest, Georgia, is hereby amended by adding an Article XI, that reads as follows:

ARTICLE XI. – VEHICLES FOR HIRE

Sec. 15-11-1. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Open stand means locations on the streets of the city that may be used by any taxicab on a nonexclusive, first-come-first-served basis, and not by private vehicles or other public conveyances.

Taxicab means a motor vehicle used to transport passengers for a fee or fare and which is fitted with a taximeter or other device that is used to compute such fee or fare. Taxicabs shall not include limousine carriers or ride share drivers as defined in O.C.G.A. § 40-1-90(1) and (3).

Taxicab company means an entity or person operating a taxicab or providing taxi services as defined in O.C.G.A. § 40-1-90(5).

Taximeter means an instrument or device attached to a motor vehicle and designed to measure the distance traveled by such vehicle, or an instrument or device attached to a motor vehicle and designed to compute and indicate the fare or fee to be charged to the passenger.

Sec. 15-11-2. - Doing business defined.

Any taxicab company operating a taxicab within the incorporated boundaries of the city or with an established business relationship with independent contractors operating a taxicab shall be deemed doing business in the city under this article if such person is picking up passengers in the city and accepting or soliciting any consideration, charge or fee which is determined by agreement, by mileage, by the length of time the vehicle is used or by contract for the use of any motor vehicle or other vehicle designed or used for the purpose of transporting passengers.

Sec. 15-11.3. - Cruising and use of vehicle stands.

Cruising is defined as moving about the streets of the city for the purpose of picking up and transporting passengers who have not previously requested such service by telephone or by personal command. Taxicab companies shall ensure that their drivers use open stands on a nonexclusive, first-come-first-served basis.

Sec. 15-11-4. - Call jumping.

Taxicab companies under this article shall not participate in nor allow their drivers to practice call jumping or the act of intercepting a passenger who has requested service from another company.

Sec. 15-11-5. - Schedule of fares.

- (a) All taxicab companies doing business in the incorporated boundaries of the city shall charge a schedule of fares as provided in the city fee schedule.
- (b) All taxicab companies permitted under this article shall have the right to charge a charge as provided in the city fee schedule if the meter is not utilized.
- (c) Taximeters shall be calibrated by the permitted taxicab company to calculate the fares in accordance with the schedule set forth in this section. The taxi shall have, installed, lead and wire seals to the taximeter once it is calibrated so that no adjustments, alterations or replacements may be made to the taximeter that affects in any way its accuracy or indications.

Sec. 15-11-6. - Temporary fuel surcharge.

- (a) The City Manager or his designee shall assess fuel prices in the city every three months, the first assessment to occur immediately after approval of the ordinance from which this article is derived and again thereafter on November 1, February 1, May 1, and August 1 of each calendar year and repeating every November 1, February 1, May 1, August 1 and/or an assessment may be needed based on a sudden increase in gasoline prices between those dates.
- (b) At the time of the assessment, if the City manager or his designee finds that the price of fuel in the city exceeds by 20 percent the average price of fuel in the Atlanta metropolitan area in the preceding year, as published by the American Automobile Association, the City manager or designee shall be authorized to institute temporary fuel surcharges as set forth in this article.
- (c) Within ten days of the assessment of fuel prices, if the price exceeds the standards of subsection (b) of this section, the City Manager or his designee shall notify all taxicab companies, taxicab drivers, taxicab trade associations, and all other affected persons or entities operating in the taxicab industry within the city of temporary fuel surcharges that may be imposed on customers.
- (d) If the City Manager or designee authorizes the assessment of temporary fuel surcharges, all taxicab companies and drivers shall charge, in addition to the schedule of fares set forth in section 15-11-5, a fuel surcharge as provided in the city fee schedule.
- (e) No other temporary fuel charges may be assessed against customers and the temporary fuel surcharges applied only remains in effect until the time of the next periodic fuel price assessment by the police chief or designee.
- (f) All taxicab drivers must and shall conspicuously display a printed passenger notice on the taxicab dashboard describing the temporary fuel surcharge.
- (g) The printed notice shall advise passengers that a temporary fuel surcharge will be added to the metered fare or to the flat rate fare due to increases in gasoline prices in the city and

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379 shall advise passengers of the amount of the fee as described in subsection (d) of this
380 section.

381

Section 3:

The Code of the City of Stonecrest, Georgia, is hereby amended by adding an Article XIII, that reads as follows:

ARTICLE XIII. - MULTIFAMILY RENTAL DWELLINGS

Sec. 15-13-1. - Definitions.

For the purpose of this article, certain terms and words are defined. Where words have not been defined, but are defined in Chapter 1, those words shall have the meaning defined therein. The following words, terms, and phrases, when used in this article, shall have the meanings ascribed to them as directed below, except where the context clearly indicates a different meaning:

Certified building inspector means a person who has been authorized to perform inspections pursuant to the process established by this article, provided that such person maintains the qualifications for certification as established by this article.

Code-compliance certificate means a certificate, in a form authorized by the City Manager or his designee, executed by a certified building inspector showing compliance with those minimum requirements described in the inspection report attached thereto.

Inspection report means the report attached to the code compliance certificate describing minimum requirements for inspection of each unit.

Lease means any written or oral agreement that sets forth any and all conditions concerning the use and occupancy of multifamily rental dwellings or multifamily rental units.

Multifamily rental dwelling means any dwelling unit designed for and containing more than one lodging or dwelling (1) unit, as defined in Chapter 27, Article XI, of the City of Stonecrest Code of Ordinances, that is leased to a residential tenant or tenants for use as a home, residence, or sleeping unit. This definition includes, but is not limited to, multifamily dwelling units, multifamily apartments, duplexes, triplexes, boardinghouses, rooming houses, group homes, and flats.

Multifamily rental unit means any one area, room, structure, flat, apartment, or facility of a multifamily rental dwelling that is leased or available for lease to an occupant.

Occupant means any person who is a tenant, lessee, or a person residing within a multifamily rental dwelling or multifamily rental unit.

Owner means any person, agent, firm, or corporation having a legal or equitable interest in a the premises.

Premises means any lot or parcel of real property on which exists one or more multifamily rental dwellings or multifamily rental units.

416 **Sec. 15-13-2.- Certification process, requirements, forms and appeals.**

417 (a) *Process.* The City Manager or his designee shall create the process for certifying building
418 inspectors, shall establish the requirements and application for becoming a certified building
419 inspector, and shall administer the process. A nonrefundable administrative fee set by the
420 city council shall be required to be submitted with all applications to be a certified building
421 inspector. Persons who have successfully completed the certification process issued by the
422 City Manager or his designee shall be designated as certified building inspectors authorized
423 to perform the inspections required by this article.

424 (b) *Code-compliance certificates and inspection reports.* The City Manager or his designee is
425 authorized to create the forms for ~~code~~-compliance certificates and inspection reports. At a
426 minimum, inspection reports submitted to the city must contain the certified building
427 inspector's signature and date of certification. A certified building inspector shall personally
428 perform the inspections required by this article. The certified building inspector signing the
429 inspection report and performing the inspection shall not be an employee of, otherwise
430 related to, or affiliated in any way with any owner or occupant of the multifamily rental
431 dwelling or multifamily rental dwelling unit being inspected. Failure to have a certified
432 building inspector personally perform an inspection shall nullify any such-~~code~~-compliance
433 certificate.

434 (c) *Certified building inspectors.*

435 (1) *Minimum requirements.* At a minimum, a certified building inspector shall be a licensed
436 architect or engineer or shall hold one (1) of the following certifications from the
437 International Code Council: property maintenance and housing inspector, housing
438 rehabilitation inspector, building inspector, building plan examiner or commercial
439 combination inspector.

440 (2) *Denial of certification.* Upon receipt of a complete application to be a certified building
441 inspector, the City Manager or his designee shall have forty-five (45) days to grant or
442 deny the application. If denied, the City Manager or his designee shall notify the
443 applicant in writing of the reason(s) for the denial at the address set forth on the
444 application.

445 (3) *Revocation of certification.* Upon a certified building inspector's conviction of a violation
446 of subsection Sec. 15-13-4(c) of this article, or if a certified building inspector no longer
447 meets the minimum requirements set forth in this article, the City Manager or his
448 designee shall revoke the authority of that individual to act as a certified building
449 inspector. The City Manager or his designee shall notify the individual in writing of the
450 reason(s) for the revocation at the address set forth on the application to be a certified
451 building inspector.

- (4) *Appeals.* Any applicant or certified building inspector believes the provisions of this article have been applied in error may file an appeal therefrom in accordance with Article XVI of this Chapter.

Sec. 15-13-3. - Inspection, certificate and fee required.

Commencing on January 1, 2019, it shall be unlawful for any owner or agent of an owner to engage in the leasing of a multi-family rental unit without first possessing a compliance certificate.

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- (a) ~~Code~~Compliance certificate. A ~~code~~compliance certificate shall contain the certification of a certified building inspector that all multifamily rental dwellings and/or multifamily rental units subject to this article have been inspected within the twelve-month period immediately preceding the date of certification and are in compliance with applicable provisions of the Code and the requirements set forth in the code compliance certificate and inspection report.

- (1) Commencing on January 1, 2019, all owners of multifamily rental dwellings and/or multifamily rental units within the incorporated parts of the city that receive income from four (4) or more such units and meet the requirements of O.C.G.A. § 48-13-5 for having a location or office within the incorporated parts of the city shall file, simultaneously with their business occupation tax return, code compliance certificate(s) covering one hundred (100) percent of the owner's multifamily rental units located within the incorporated parts of the city.

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- (2) After submission of the initial code compliance certificate(s), owners shall submit code compliance certificates annually with their business occupational tax return. Each subsequent code compliance certificate shall show an internal and external inspection of at least twenty (20) percent of the units on a premise and all units on a the premises shall be inspected, at a minimum, every five (5) years. All units inspected shall be listed individually on the code compliance certificate submitted by the certified building inspector.

- (b) *Fee.* A nonrefundable administrative fee set by the city council shall be required to be submitted with all code compliance certificates.

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- (c) *Inspections and repairs.* Upon initial inspection of multifamily rental dwellings and multifamily rental units subject to this article, should a certified building inspector determine that further work is necessary to comply with the minimum standards set forth in the Code, an acceptable plan shall be submitted to the building official, outlining the time and scope of work necessary to bring the units into compliance. If the plan is accepted by the building official as reasonable and justified, an extension of the time for compliance with this article may be granted for up to ~~one (1) year~~six (6) months so that necessary repairs may be completed. No extension shall be granted if life

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or safety issues are involved, and none of the units where life or safety issues are involved shall be leased until brought into compliance with the minimum standards set forth in the Code. For years subsequent to the initial year, the ~~one-year~~six (6) month extension for repairs is not available.

(d) *Written record of inspection.* Each owner and certified building inspector shall for a period of five (5) years from the date of inspection keep a written record of inspection for each multifamily rental dwelling and/or multifamily rental unit, including the date of the inspection, items inspected, and all violations, if any, observed. These records shall be presented to the building official within ten (10) business days after a request is made in writing to the owner or inspector. Failure to provide these records shall nullify the code-compliance certificate for such dwellings or units.

(e) *Exemptions.* Provided all other required permits, certificates and/or permissions are obtained from the city, this section shall not apply to multifamily rental dwellings or multifamily rental units for a period of five (5) years following issuance of a certificate of occupancy for such dwelling or unit.

Sec. 15-13-4. - Violations.

(a) No business occupation tax certificate shall be issued to any owner until the owner provides the city with a code compliance certificate in the form and manner required by this article.

(b) Any person who does anything prohibited or fails to do anything required by this article, shall upon conviction, be punished as provided by this Code.

(c) An owner who knowingly furnishes or participates in furnishing a code compliance certificate to the city falsely certifying that all multifamily rental dwellings or multifamily rental units inspected are in compliance with the requirements set forth in the code compliance certificate shall be guilty of a violation of this article for each multifamily rental dwelling or multifamily rental unit for which the certification is shown to be false.

(d) A certified building inspector who knowingly furnishes or participates in furnishing an inspection report containing false information that a multifamily rental dwelling or multifamily rental unit meets the minimum housing standards of the city as shown by the inspection report shall be guilty of a violation of this article.

Secs. Sec. 15-13-5 — Sec. 15-13-51. - Reserved.

Section 4:

The Code of the City of Stonecrest, Georgia, is hereby amended by adding an Article XVIII, that reads as follows:

ARTICLE XVIII – SHORT TERM VACATION RENTALS

15.18.1 – Purpose; intent

The purpose of this article is to protect the public health, safety and general welfare of individuals and the community at large through the establishment of reasonable regulations for the use of residential dwelling units as short-term vacation rentals

15.18.2 – Definitions

(a) *Code compliance verification form* is a document executed by a short-term vacation owner certifying that the short-term vacation unit complies with applicable zoning, building, health and life safety code provisions. No person shall allow occupancy or possession of any short-term vacation rental unit if the premises is in violation of any applicable zoning, building, health or life safety code provisions.

(b) *Short-term vacation rental occupants* means guests, tourists, lessees, vacationers or any other person who, in exchange for compensation, occupy a dwelling unit for lodging for a period of time not to exceed 30 consecutive days.

(c) "Short-term vacation rental" means any dwelling unit, individually or collectively owned single-family dwelling, multi-family dwelling unit, two-family dwelling, three-family dwelling, duplex, triplex, urban single-family dwelling, condominium, townhouse, cottage development, dwelling unit, and structure used for residential dwelling or any unit or group of units in a condominium, cooperative, or timeshare, or owner-occupied single-family dwelling, that permits any portion of the premises or dwelling unit to be used for the accommodation of transient guests, for a fee, for less than 30 consecutive days. This is also identified as "STVR".

(d) *Short-term vacation rental agent* means a natural person designated by the owner of a short-term vacation rental on the short-term vacation rental certificate application. Such person shall be available for and responsive to contact at all times and someone who is customarily present at a location within the city for purposes of transacting business.

15.18.3 – Application

(a) No person shall rent, lease, or otherwise exchange for compensation all or any portion of a single-family dwelling as short-term vacation rental, as defined in section 15.18.2, without first obtaining a business tax certificate from the City Manager or his designee and complying with the regulations contained in this section. No certificate issued under this

chapter may be transferred or assigned or used by any person other than the one to whom it is issued, or at any location other than the one for which it is issued.

- (b) Applicants for a business tax certificate shall submit, on an annual basis, a registration for a short-term vacation rental to the City. The application shall be furnished on a form specified by the City Manager, accompanied by a non-refundable application fee as established in 15.18.4. Such application should include:

- (1) The complete street address of the STVR;
- (2) Ownership, including the name, address, e-mail and telephone number of each person or entity with an ownership interest in the property;
- (3) The number of bedrooms, the maximum occupancy and the number and location of off-street parking spaces on the premises and any off-premises parking applicable;
- (4) The name, address and telephone number of a short-term vacation rental agent or local emergency contact if applicable; and,
- (5) Any other information that this chapter requires the owner to provide to the city as part of the registration for a short-term vacation rental. The city manager or his or her designee shall have the authority to obtain additional information from the applicant as necessary to achieve the objectives of this chapter.
- (6) The emergency contact number required by section 15.18.5.
- (7) Any other information that this chapter requires the owner to provide to the city as part of an application for a short-term vacation rental certificate. The city manager or his or her designee shall have the authority to obtain additional information from the applicant as necessary to achieve the objectives of this chapter.

- (c) The application form pursuant to this section shall be processed and added to a database to be kept by the City Manager or his designee listing STVR unit information and any citations that occur. The city shall notify the owner and agent of any instances that result in a citation for a code violation or other legal infraction.

- (d) The owner or agent shall not be relieved of any personal responsibility or personal liability for noncompliance with any applicable law, rule or regulation pertaining to the use and occupancy of the single-family dwellings as a short-term vacation rental unit.

15.18.4 -- Application Fee/Renewal

- (a) The short-term vacation rental application shall be accompanied by an initial application fee and be subject to an annual application fee every January 1 thereafter, as established by the mayor and city council.

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(1) The 2018 rental application fee shall be ~~\$251050.00~~ per rental unit.

(2) The annual application fee thereafter shall be ~~\$2510050.00~~ per rental unit. The annual application fee shall be due January 1 of each year and if not paid within 90 days thereof shall be subject to delinquency and penalties provisions of Chapter 15, Article II of the Code of Ordinances for Stonecrest, Georgia, as applicable to occupation tax/business license provisions. Every person holding a license as specified herein shall secure that license within 90 days after January 1 of each year, and pay for same as herein provided.

(b) Each property shall be issued a business tax certificate.

(c) Failure to apply for a business tax certificate as prescribed by this law will result in a fine of \$100.00 for each month that the unit continues to operate a valid business tax certificate.

(d) The annual application fee is not transferrable and should ownership of a unit change, the new owner must reapply and remit the application fee.

(e) In the event a management company changes, a new application will be required with a fee of \$25.00 to cover administrative costs.

(f) The business tax certificate number shall be included in any advertisement of the STVR.

15.18.5 – Emergency Contact

All STVR units shall be furnished with a telephone that is connected to a landline or similar type connection, including a voice over internet protocol, in order that 911 dispatch may be able to readily identify the address and/or location from where the call is made when dialed. STVR applicants and agents are to work with city staff as to the implementation of such emergency contact facilities or equipment and, until the appropriate connection for emergency contact is established, occupancy of the STVR location without the connection is prohibited.

15.18.6 – Compliance

All STVRs are responsible for complying with and remitting the City of Stonecrest's hotel and motel tax ordinance.

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Section 5:

~~The Code of the City of Stonecrest, Georgia, is hereby amended by adding an Article XIX, that reads as follows:~~

~~ARTICLE XIX VENDING IN THE PUBLIC RIGHT OF WAY~~

~~DIVISION 1. GENERALLY~~

~~15.19.1 Definitions~~

~~The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:~~

~~*Blind person* means a person whose vision, with correcting glasses, is so defective as to prevent the performance of activities for which eyesight is essential. See O.C.G.A. § 49-4-51(b).~~

~~*Disabled veteran* means a resident of the state who may be either a war veteran or veteran of peace time service as set forth below and such person must obtain a certificate of exemption issued by the state commissioner of veterans' service.~~

~~(1) A war veteran must furnish satisfactory proof that he or she has a physical disability which is disabling to the extent of 10 percent or more; that his or her service in the armed forces of the United States was terminated under conditions other than dishonorable; and that his or her service or some part thereof was rendered during a war period as defined by an act of the Congress of the United States, approved March 20, 1933, entitled "An Act to Maintain the Credit of the United States," and commonly known as Public Law No. 2, 73rd Congress; or that some part of his or her service was rendered on or after December 7, 1941, and before December 31, 1946; or that some part of his or her service was rendered on or after June 27, 1950, and before January 31, 1955; or that some part of his or her service was rendered on or after August 5, 1964, and before May 8, 1975. Proof of such 10 percent disability shall be established upon the written certificate of two physicians as to such disability, or by a letter or other written evidence from the United States Department of Veterans Affairs or the Department of Veterans Service stating the degree of disability, or by written evidence from the branch of the armed forces of the United States in which such veteran served.~~

~~(2) A veteran of peace time service in the United States armed forces must furnish proof that he or she has a physical disability to the extent of 25 percent or more incurred in the line of duty during the period of such service by a letter or other evidence from the United States Department of Veterans Affairs or the Department of Veterans Service stating the degree of disability or by written evidence from the branch of the armed forces of the United States in which such~~

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veteran served and that his or her service in the armed forces of the United States was terminated under conditions other than dishonorable.

(3) That disabled veterans and blind persons shall only have to show proof of their disability upon their initial application, as opposed to annually. If the current language of O.C.G.A. § 43-12-2 is amended, then this definition of disabled veteran shall be controlled by O.C.G.A. § 43-12-2, as amended.

Food truck means any motor vehicle used for vending of prepared food items to the public from designated food truck areas.

Food vending cart means a vending cart at which prepared food, prepared non-alcoholic beverages, pre-packaged food and non-alcoholic pre-packaged beverages may be offered for sale.

Items permissible for sale means items which may be offered for sale by and are limited to third party published (non-adult) materials, non-alcoholic pre-packaged beverages, pre-packaged food, prepared food, prepared non-alcoholic beverages, and cut single stem or bunches of flowers. Items permissible for sale shall not include any tobacco products.

Moral turpitude means the act or behavior of baseness, vileness or the depravity in private and social duties which people owe to their fellow people, or to society in general, contrary to accepted and customary rule of right and duty between person and person; act or behavior that gravely violates moral sentiment or accepted moral standards of community and is a morally suitable quality held to be present in some criminal offenses as distinguished from others.

Non-alcoholic pre-packaged beverages means beverages sealed in plastic or aluminum single serving containers excluding all beverages in glass containers, and excluding all alcoholic, including but not limited to malt beverages, wine and distilled spirits.

Operating area means:

(1) The area in which a vendor may operate from a vending cart and which may not exceed 28 square feet of sidewalk including the area of the vending cart, and, when externally located, the operator and trash receptacle; or

(2) The parameters of the food truck.

Pre-packaged food means single serving sealed packaged foods including but not limited to candy, popsicles, chips/bagged snacks which do not require any heating or powered refrigeration, and the service of which does not require authorization by the DeKalb County Departments of Health.

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~~Prepared non-alcoholic beverages~~ means beverages prepared on-site and which are not served in glass containers, and excluding all alcoholic beverages, including but not limited to malt beverages, wine and distilled spirits.

~~Prepared food~~ means food prepared on-site, the sale of which requires authorization by the DeKalb County Department of Health.

~~Public property and public space~~ both mean, for the purpose of this article, any property owned by the City of Stonecrest within street rights of way, including any roadways and sidewalks, but excluding city-owned parks.

~~Public property vending~~ means vending activity as permitted on publicly owned property under the jurisdiction of the City of Stonecrest and in specifically designated city-owned parks. Other than where specifically designated, vending shall only be permitted in city-owned parks where such activity is associated with a special event and/or subject to regulation under a more specific permit.

~~Valid vendor permit~~ means a permit issued by the City of Stonecrest for a vendor of a vending cart or food truck. Such permit shall consist of a photo identification card which contains the vendor's name, photograph, vending type and classification, authorized valid vendor location(s) and time period for which such permit is valid.

~~Vendor~~ means any person who has been issued a valid vendor permit.

~~Sec. 15-19-2. Purpose, intent and applicability.~~

~~(a) Vending on public property in the incorporated boundaries of the city, as defined in this article, shall be subject to regulation as set forth in this article, including the requirement of regulatory licenses and permits. Vending in the public right of way without a permit issued pursuant to this article shall be unlawful and a person violating this article shall, upon conviction, be punished as provided by this Code.~~

~~(b) It is the intent of council in enacting this article to:~~

- ~~(1) Serve and protect the health, safety and welfare of the general public.~~
- ~~(2) Establish a uniform set of rules and regulations which are fair and equitable.~~
- ~~(3) Provide economic development opportunities for small entrepreneurs in the city.~~
- ~~(4) Provide a variety of goods and services for sale.~~
- ~~(5) Promote stable vendors who will enrich the city's ambiance and be assets to public security.~~

~~Sec. 15-19-3. Vending business required to remit sales taxes and keep records.~~

~~(a) Every vendor shall file with Georgia Department of Revenue ("GDOR") the appropriate forms and remit monthly sale tax revenues to GDOR. Nothing in this section shall~~

prohibit the revocation of any permit in accordance with the provisions of Division 2 of this article.

(b) Prospective vendors, by filing an application, agree to produce documents and records which may be considered pertinent to the ascertainment of facts relative to the issuance and maintenance of the permit, including but not limited to the following:

(1) The prospective vendor's bank or other financial institution records, including those which are personal or from any business in which the vendor has any interest, such as savings and checking account records, bank statements, ledgers, deposit tickets, withdrawal slips, canceled checks, check stubs, bank drafts, cashier's checks, certificates of deposit, money market accounts, pass books and applications for each account;

(2) Personal state and federal income tax statements for the past five years; and

(3) Records of sales and receipts for purchases and expenses from any business in which a vendor has any interest.

Sec. 15-19-4. - Vending operational rules.

(a) Hours of operation shall be 7:00 a.m. to 12:00 a.m.

(b) Any and all signage must comply with the City of Stonecrest Code of Ordinances, Chapter 21.

(c) Vendors may offer items permissible for sale only.

(d) All vendors shall display their valid vending permits, photo identification card, and any required copies of licensing agreements at the valid vendor location.

(e) All vendors must maintain an auditable point-of-sale system to track and report on sales revenue and appropriate taxation in accordance with the requirements of section 15-19-3.

(f) Vending operations may not obstruct vehicular traffic flow except for up to 15 minutes to load and unload vending carts and merchandise.

(g) Vending operations, including but not limited to the display of merchandise and the provision of tables and/or chairs, may not exceed the approved operating area.

(h) Vending carts and/or food trucks shall not be left unattended or stored at any time in the operating area when vending is not taking place or during restricted hours of operation.

(i) Food trucks may only be open to and may only serve customers from the side of the truck facing the sidewalk, and are prohibited from operating with their trucks open to the roadway.

Sec. 15-19-4. - Aesthetic standards.

Vending carts must comply with the following aesthetic standards:

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- (a) Length of the cart may not exceed seven feet and width may not exceed four feet height excluding canopies, umbrellas, or transparent enclosures may not exceed five feet;
- (b) Umbrellas or canopies shall have a minimum clearance of seven feet and a maximum height of nine feet six inches above the sidewalk;
- (c) Umbrellas or canopies may not exceed 48 square feet (eight feet x six feet);
- (d) All carts must be mobile, and able to roll on wheels;
- (e) The design, materials, and colors are to be of natural wood or metal products and considerate of the immediate surroundings of the proposed location;
- (f) Materials must be in working order, and may not include peeling paint, visible defects or areas requiring maintenance;
- (g) The wheels located under the cart are preferred, however projecting wheels must have fenders;
- (h) Hitches attached to the cart must be removable and detached when in operation; and
- (i) If used, propane tanks must be enclosed.

~~Secs. 15.19.5 - 15.19.20. Reserved.~~

DIVISION 2. PERMITS AND LICENSES

~~Sec. 15.19.21. Vendor permit and business license required.~~

- (a) No public property vending shall occur without a permit issued pursuant to this article, except that no permit shall be required for persons selling newspapers at large other than from a fixed location on public property.
- (b) No person shall engage in the business or trade of vending without first obtaining a business license. Disabled veterans and blind persons, as defined by O.C.G.A. § 43-12-1, are exempt from payment of business license fees, but must obtain such licenses.
- (c) All valid vendor permits are nontransferable, and must be displayed in clear view, together with the vending permit photo identification card, at the permitted location or designated food truck area at all times when the vendor or assistant vendor is present.

~~Sec. 15.19.22. Application.~~

- (a) An application shall be required by all persons seeking issuance of a valid vendor permit. Each applicant must apply in person and complete an application form. Application forms may be obtained from and filed with the office of revenue.
- (b) Permit fees and applicable maintenance fees are due and payable in the manner required by the City Manager or his designee if and when the application is approved by the City.
- (c) The application shall, at a minimum, consist of the following data:

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- (1) ~~Applicant's name and current address.~~
(2) ~~Applicant's previous addresses within the last five years.~~
(3) ~~Social security number.~~
(4) ~~Proposed vending location.~~
(5) ~~A dimensional drawing that clearly shows the footprint and placement of the cart and the operating area.~~
(6) ~~The times and days/dates during which the vendor estimates they will vend on the proposed property.~~
(7) ~~GDOR retail identification tax number.~~
(8) ~~State issued picture identification.~~
(9) ~~City business license.~~
(10) ~~A general description of the items permissible for sale to be sold or offered for sale.~~

~~(d) All applicants shall furnish all data, information and records requested of them by the City Manager or his designee within 30 days from the date of request. Failure to furnish such information within 30 days shall automatically dismiss, with prejudice, the application.~~

~~Sec. 15-19-23. Term and renewal of permits.~~

~~(a) A valid vendor permit will be issued for a one-year period. When the one-year permit expires, a vendor may apply for a renewal permit which allows the vendor to vend for another one-year period. All valid vendor permits are required to be renewed annually on or before March 1. All annual permit fees and applicable annual maintenance fees are due and payable at the time of renewal.~~

~~(b) Vendors may present to the City Manager or his designee an application for a renewal permit. Upon a review and approval of the renewal application, satisfaction of all other license and permit requirements, and upon payment of the appropriate fees as indicated in section 15-19-24, the vendor shall be furnished with a renewal permit.~~

~~(c) Each applicant for a renewal application shall submit an application which shall at a minimum consist of the data required for the issuance of an initial permit as set forth in section 15-19-22.~~

~~Sec. 15-19-24. Annual fees.~~

~~(a) Annual permit fees and applicable annual maintenance fees are due and payable upon approval of the application.~~

~~(b) The annual permit fee for all valid vendor permits shall be \$75.00.~~

~~Sec. 15-19-25. Location.~~

~~(a) Valid vendor locations shall:~~

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- (1) Not be within 15 feet of street intersections or pedestrian crosswalks or 15 feet of building entrances/exits or within 50 feet of hotels/motels;
(4) Provide a minimum of five feet of unobstructed pedestrian space;
(5) Not be within 15 feet of a fire hydrant; and
(6) Not be within 600 feet of the closest property line of any public or private elementary, middle or high school.

Sec. 15-19-26. Notification of name change or change of address.

Whenever either the name or address provided by the vendor on the application for a valid vendor permit changes, the vendor shall notify the City Manager or his designee in writing within ten days of such change and provide same with the name change or address change. Vendors shall assure that a current and correct name, residence address and mailing address are on file with the City Manager or his designee at all times.

Sec. 15-19-27. Denials, fines, suspensions and revocations.

(a) No valid vendor permit shall be issued to any person who has been convicted within five years immediately prior to the filing of the application for any felony or misdemeanor relating to drug possession and related matter; crimes of moral turpitude; larceny; fraudulent conveyance, perjury and/or false swearing, or subrogation. Any conviction for dealing and/or trafficking in illegal drugs will automatically disqualify an applicant.

(b) Failure to maintain initial qualifications shall be grounds for revocation or denial of a renewal permit.

(c) A denial, fine, suspension, revocation of any permit issued pursuant to this article may be imposed for any of the following causes:

(1) Fraud, misrepresentation or false statements contained in the application.

(2) Failure on the part of a vendor to maintain initial eligibility qualifications

(3) Failure to furnish any and all documentation requested by either the police department, the office of revenue or the license review board for purposes of the investigation of any application or for the inspection of records pursuant to this division within 30 days of such request.

(4) Any failure to comply with any requirement set forth in this article or this Code.

(d) Any person whose permit is revoked may not reapply until one year following the effective date of the revocation.

(e) In addition to carrying out all other investigations as may be permitted under this article, the license and permits unit shall investigate any alleged violation of this article upon receipt of a written, sworn complaint by any person who witnesses or becomes aware of a potential violation. Such complaint shall be signed under penalty of perjury, and shall be accompanied by any supporting evidence.

Sec. 15-19-27. Appeal on suspension, fine, revocation or denial.

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A person to whom the city refuses to issue a vendor's permit or whose vendor's permit is suspended or revoked may file an appeal therefrom in accordance with Article XVI of this Chapter.

Sec. 15-19-29. Vendors selling ice cream or other pre-packaged food and/or non-alcoholic pre-packaged beverages out of motor vehicles.

(a) Vendors selling ice cream or other pre-packaged food and/or non-alcoholic pre-packaged beverages out of motor vehicles shall be subject to this section. Vendors permitted in accordance with this section shall not be permitted to sell prepared food or prepared non-alcoholic beverages.

(b) Every vendor selling ice cream or other pre-packaged food and/or non-alcoholic pre-packaged beverages out of motor vehicles pursuant to this section shall, before making any sale, park the vehicle at the right curb and at least eight feet from any other vehicle that may be parked on the street and not less than 100 feet from any intersecting street. When the vending vehicle stops, all sound equipment or other devices used to notify customers of the presence of the vendor shall be stopped and shall not be resumed until the vehicle is again put in motion.

(c) No vehicle using sound equipment or other method of attracting customers shall operate such equipment before 9:00 a.m. or after 9:00 p.m. daily and between the hours of 9:30 a.m. and 12:00 noon on Sundays. Furthermore, such equipment shall not be operated within one block of a church between the hours of 7:00 a.m. and 9:00 p.m. on Sundays. On days in which schools are actually in session, no motor vehicle shall be operated within 600 feet of any public school in the city one hour before or one hour after published school hours.

(d) Vendors selling ice cream or other pre-packaged food and/or non-alcoholic pre-packaged beverages out of motor vehicles pursuant to this section, shall not stop or stand and do business for more than 30 minutes.

(e) Vendors selling ice cream or other pre-packaged food and/or non-alcoholic pre-packaged beverages out of motor vehicles pursuant to this section shall not be restricted to an operational area or location specifically described in Section 15-19-25.

Sees. 15.19-30—15.19-50. Reserved.

Section 6:

1. It is hereby declared to be the intention of the Mayor and City Council that all sections, paragraphs, sentences, clauses and phrases of this Ordinance are and were, upon their enactment, believed by the Mayor and City Council to be fully valid, enforceable and constitutional.
2. It is hereby declared to be the intention of the Mayor and City Council that, to the greatest extent allowed by law, each and every section, paragraph, sentence, clause or phrase of this Ordinance is severable from every other section, paragraph, sentence, clause or phrase of this Ordinance. It is hereby further declared to be the intention of the Mayor and City Council that, to the greatest extent allowed by law, no section, paragraph, sentence, clause or phrase of this Ordinance is mutually dependent upon any other section, paragraph, sentence, clause or phrase of this Ordinance.
3. In the event that any phrase, clause, sentence, paragraph or section of this Ordinance shall, for any reason whatsoever, be declared invalid, unconstitutional or otherwise unenforceable by the valid judgment or decree of any court of competent jurisdiction, it is the express intent of the Mayor and City Council that such invalidity, unconstitutionality, or unenforceability shall, to the greatest extent allowed by law, not render invalid, unconstitutional or otherwise unenforceable any of the remaining phrases, clauses, sentences, paragraphs or sections of the Ordinance and that, to the greatest extent allowed by law, all remaining phrases, clauses, sentences, paragraphs and sections of the Ordinance shall remain valid, constitutional, enforceable, and of full force and effect.
4. All ordinances or resolutions and parts of ordinances or resolutions in conflict herewith are hereby expressly repealed.
5. The within ordinance shall become effective upon its adoption.
6. The provisions of this Ordinance shall become and be made part of The Code of the City of Stonecrest, Georgia, and the sections of this Ordinance may be renumbered to accomplish such intention.

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Approved:

As to form:

Attest:

[2487700/1] [2417244/12487700/12487700/1]



CITY COUNCIL AGENDA ITEM

**SUBJECT: ORDINANCE TO AMEND SECTION 2.15 (A) OF ARTICLE II TO ALLOW
THE PASSAGE OF AN ORDINANCE RELATED TO ZONING AND LAND
USE ON ITS FIRST READ**

☒ **ORDINANCE** ☐ **POLICY** ☐ **STATUS REPORT**
☐ **DISCUSSION ONLY** ☐ **RESOLUTION** ☐ **OTHER**

Date Submitted: 05/15/2018 First Read 05/21/2018 Council Meeting: 06/06/2018

SUBMITTED BY: City Attorney Emily M. Preston

PURPOSE: This ordinance is to request to establish by Home Rule the right to adopt a zoning ordinance with one read. Currently the charter requires two readings. This item has been advertised in the legal organ of the county, the Champion Newspaper and the first read will be May 21, 2018 and the adoption will be at the next regular scheduled City Council Meeting.

HISTORY:

FACTS AND ISSUES:

OPTIONS:

RECOMMENDED ACTION: Second Read and Adoption of Ordinance

**AN ORDINANCE OF THE CITY OF STONECREST, GEORGIA, TO AMEND
SECTION 2.15(a) OF ARTICLE II OF THE CITY CHARTER TO ALLOW THE
PASSAGE OF AN ORDINANCE RELATED TO ZONING AND LAND USE ON ITS
FIRST READ**

WHEREAS, the City of Stonecrest, Georgia Mayor and City Council are authorized by the City Charter to provide comprehensive planning and zoning for land usage inside the city boundaries; and

WHEREAS, pursuant to O.C.G.A. § 36-66-2, a local government may provide, by ordinance, procedures to supplement the requirements for zoning procedures, which are outlined in O.C.G.A. § 36-66-1 et seq.; and

WHEREAS, in facilitation of the process of zoning, the Mayor and City Council of the City of the City of Stonecrest wish to require a one-read policy for the passing of a zoning ordinance.

WHEREAS, Article IX, Section II, Paragraph II of the Constitution of the State of Georgia, entitled Home Rule for Municipalities, allows the General Assembly of the State of Georgia to provide by law for the self-government of municipalities, which the General Assembly has done with The Municipal Home Rule Act of 1965, O.C.G.A. § 36-35-1 et. seq.; and

WHEREAS, O.C.G.A. § 36-35-3 allows municipal charters to be amended by ordinances duly adopted at two regular consecutive meetings of the municipal governing authority, not less than seven nor more than 60 days apart; and

WHEREAS, pursuant to O.C.G.A. §36-35-3, the required notice has been published in The Champion, the legal organ of DeKalb County, once a week for three weeks prior to its final adoption, and a copy of the proposed amendment has been on file in the Office of the Clerk of Stonecrest and in the Office of the Clerk of the Superior Court of DeKalb County, Georgia, as required by law; and

WHEREAS, the required notice will have been published within the statutory period of 60 days immediately preceding the final adoption of this Ordinance amending the Charter; and

WHEREAS, the title of this Ordinance shall have been read and the Ordinance duly adopted at two consecutive City Council meetings not less than 7 nor more than 60 days apart as required by Georgia law; Stonecrest, Georgia, hereby ordain as follows.

THEREFORE, the Mayor and City Council of the City of Stonecrest, pursuant to their authority granted in O.C.G.A. 36-35-3, do hereby adopt this Ordinance so that the Charter of the City of Stonecrest is amended to allow passage of a zoning ordinance after one read.

Section 1: The Charter of the City of Stonecrest, Georgia, is hereby amended, in accordance with O.C.G.A. § 36-35-3, so that upon proper passage, Section 2.15(a) shall read as follows:

SECTION 2.15.

Ordinance form; procedures.

(a) Every proposed ordinance and resolution shall be introduced in writing and the city council shall have the authority to approve, disapprove, or amend the same. A resolution may be passed at the time it is offered, but an ordinance shall not be adopted until the title of such ordinance shall have been read at two city council meetings, provided that the beginning of such meetings shall be neither less than 24 hours nor more than 60 days apart. This requirement of two readings shall not apply to emergency ordinances, zoning decisions regulating land use and development, to ordinances passed during the first 90 days from the date on which the city begins operation, to ordinances adopted at the first business meeting of the city council in a calendar year, or to ordinances adopted at the first meeting of the initial city council as elected under subsection (b) of Section 2.02 of this charter.

Section 2:

1. It is hereby declared to be the intention of the Mayor and City Council that all sections, paragraphs, sentences, clauses and phrases of this Ordinance are and were, upon their enactment, believed by the Mayor and City Council to be fully valid, enforceable and constitutional.
2. It is hereby declared to be the intention of the Mayor and City Council that, to the greatest extent allowed by law, each and every section, paragraph, sentence, clause or phrase of this Ordinance is severable from every other section, paragraph, sentence, clause or phrase of this Ordinance. It is hereby further declared to be the intention of the Mayor and City Council that, to the greatest extent allowed by law, no section, paragraph, sentence, clause or phrase of this Ordinance is mutually dependent upon any other section, paragraph, sentence, clause or phrase of this Ordinance.
3. In the event that any phrase, clause, sentence, paragraph or section of this Ordinance shall, for any reason whatsoever, be declared invalid, unconstitutional or otherwise unenforceable by the valid judgment or decree of any court of competent jurisdiction, it is the express intent of the Mayor and City Council that such invalidity, unconstitutionality, or unenforceability shall, to the greatest extent allowed by law, not render invalid, unconstitutional or otherwise unenforceable any of the remaining phrases, clauses, sentences, paragraphs or sections of the Ordinance and that, to the greatest extent allowed by law, all remaining phrases, clauses, sentences, paragraphs and sections of the Ordinance shall remain valid, constitutional, enforceable, and of full force and effect.

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4. All ordinances or resolutions and parts of ordinances or resolutions in conflict herewith
are hereby expressly repealed.

5. The within ordinance shall become effective upon its adoption.

SO ORDAINED AND EFFECTIVE this the ____ day of _____, 2018.

Approved:

Jason Lary, Sr., Mayor

As to form:

City Attorney

Attest:

Brenda James, City Clerk



CITY COUNCIL AGENDA ITEM

SUBJECT: Amendment to the Intergovernmental Agreement with DeKalb County for the
HOST/EHOST

☐ ORDINANCE	☐ POLICY	☐ STATUS REPORT
☐ DISCUSSION ONLY	☐ RESOLUTION	☒ OTHER

Date Submitted: 04/24/2018 **Adopted:** 05/21/2018 **Council Meeting:** 06/06/2018

SUBMITTED BY: City Attorney Tom Kurrie

PURPOSE: This agreement was approved at the May 21, 2018 City Council Meeting. Due to the City of Dunwoody being removed from the agreement, an amendment needs to be approved.

HISTORY:

FACTS AND ISSUES:

OPTIONS:

RECOMMENDED ACTION: Approval of the Amended Agreement

**INTERGOVERNMENTAL AGREEMENT FOR THE 2018 DISTRIBUTION
OF HOMESTEAD OPTION SALES TAX PROCEEDS AND EQUALIZED
HOMESTEAD OPTION SALES TAX PROCEEDS**

THIS AGREEMENT is made and entered into this ____ day of _____, 2018 by and between DeKalb County, a political subdivision of the State of Georgia (hereinafter the "County"), and the City of Avondale Estates, the City of Brookhaven, the City of Chamblee, the City of Clarkston, the City of Decatur, the City of Doraville, the City of Lithonia, the City of Pine Lake, the City of Stonecrest, the City of Stone Mountain, and the City of Tucker, municipal corporations of the State of Georgia (hereinafter collectively the "Municipalities" and, individually, as the context requires, "Municipality").

WITNESSETH:

WHEREAS, the parties to this Agreement consist of the County and the Municipalities;

WHEREAS, pursuant to O.C.G.A. § 48-8-109.1 *et seq.* (the "Act"), a referendum election was held in DeKalb County, Georgia on November 7, 2017 in which voters approved suspending the one percent Homestead Option Sales and Use Tax ("HOST") and replacing the tax with a one percent Equalized Homestead Option Sales and Use Tax ("EHOST"), for the purpose of applying one-hundred percent of the proceeds collected from EHOST toward reducing ad valorem property tax millage rates within the County and Municipalities;

WHEREAS, pursuant to the Act, HOST is levied in DeKalb County until April 1, 2018, at which time EHOST becomes effective;

WHEREAS, the Act does not provide a method for the distribution of HOST and EHOST proceeds during partial years;

WHEREAS, the State Revenue Commissioner for the Georgia Department of Revenue ("Revenue Commissioner") collected HOST proceeds within DeKalb County from January 1, 2018 through March 31, 2018 ("2018 HOST Proceeds") and disbursed the 2018 HOST Proceeds to the County governing authority;

WHEREAS, the County and the Municipalities have agreed on an equalization amount to be paid by the County to the governing authority of each Municipality from the 2018 HOST Proceeds and also agreed on a method to calculate the total homestead exemption provided in 2018 for all homestead properties in DeKalb County;

WHEREAS, the County and the Municipalities have reviewed the applicable law and agreed upon a method to request the Revenue Commissioner to disburse proceeds collected from EHOST during 2018;

WHEREAS, the County and the Municipalities are authorized to enter into this Agreement by Georgia law, specifically including Article IX, Section III, Paragraph 1 of the Constitution of the State of Georgia and O.C.G.A. § 48-8-104(c)(2); and

NOW, THEREFORE, in consideration of the mutual promises and understandings made in this Agreement, and for other good and valuable consideration, the County and the Municipalities consent and agree as follows:

Section 1. Representations and Mutual Covenants

- (A) The County makes the following representations and warranties which may be specifically relied upon by all parties as a basis for entering this Agreement:
 - (i) The County is a political subdivision duly created and organized under the Constitution of the State of Georgia; and
 - (ii) The governing authority of the County is duly authorized to execute, deliver and perform this Agreement; and
 - (iii) This Agreement is a valid, binding, and enforceable obligation of the County.
- (B) Each of the Municipalities, on its own behalf, makes the following representations and warranties, which may be specifically relied upon by all parties as a basis for entering this Agreement:
 - (i) The Municipality is a municipal corporation duly created and organized under the Laws of the State of Georgia; and
 - (ii) The governing authority of the Municipality is duly authorized to execute, deliver and perform this Agreement; and
 - (iii) This Agreement is a valid, binding, and enforceable obligation of the Municipality; and
 - (iv) The Municipality is located in part or entirely within the geographic boundaries of the special tax district created in the County.
- (C) It is the intention of the County and Municipalities to comply in all applicable respects with O.C.G.A. §§ 48-8-100 *et seq.* and 48-8-109.1 *et seq.* and all provisions of this Agreement shall be construed in light of the applicable provisions found in O.C.G.A. §§ 48-8-100 *et seq.* and 48-8-109.1 *et seq.*
- (D) The County and the Municipalities agree to maintain thorough and accurate records concerning their respective receipt and expenditure of HOST and EHOST proceeds.

Section 2. Conditions Precedent

The obligations of the County and Municipalities pursuant to this Agreement are conditioned upon the collection of both the HOST and EHOST taxes by the Revenue Commissioner and transferring same to the County and Municipalities in conformity with this

Agreement and the applicable provisions of O.C.G.A. § 48-8-100 *et seq.* and O.C.G.A. § 48-8-109.1 *et seq.*

Section 3. 2018 HOST Equalization Payments

- (A) The parties acknowledge that the Revenue Commissioner disbursed all 2018 HOST Proceeds to the County.
- (B) The parties acknowledge and agree, in accordance with O.C.G.A. § 48-8-104, that the parties are required to utilize a portion of the 2018 HOST proceeds to fund capital outlay projects.
- (C) The parties expressly agree that the total amounts due each Municipality for capital outlay projects ("Equalization Payments") from the 2018 HOST Proceeds are reflected in the table below:

City	Equalization Payments
Avondale Estates	\$ 131,445.12
Brookhaven	\$ 1,631,932.97
Chamblee	\$ 313,285.45
Clarkston	\$ 18,591.05
Decatur	\$ 1,162,248.60
Doraville	\$ 65,971.98
Dunwoody	\$ 1,476,947.03
Lithonia	\$ 3,747.14
Pine Lake	\$ 8,771.95
Stone Mountain	\$ 24,160.85
Stonecrest	\$ 52,045.71
Tucker	\$ 102,739.58

- (D) The County shall remit each respective Equalization Payment above to the Municipalities within 30 days of the execution of this Agreement.
- (E) The parties agree that the County shall retain that portion of the 2018 HOST Proceeds dedicated toward capital outlay projects remaining after the above Equalization Payments are remitted to the Municipalities.
- (F) The parties agree, upon remittance of the above Equalization Payments to the Municipalities by the County, that all 2018 HOST Proceeds are properly disbursed and distributed in accordance with O.C.G.A. §§ 48-8-100 *et seq.* and 48-8-109.1 *et seq.* and that no further 2018 HOST Proceeds are due and owing to any party to this Agreement.

Section 4. Distribution of 2018 EHOST Proceeds

- (A) The parties agree, in accordance with O.C.G.A. § 48-8-109.5, that EHOST proceeds collected by the Revenue Commissioner shall be disbursed as follows:
 - (i) One percent of EHOST proceeds shall be paid by the Revenue Commissioner into the general fund of the state treasury in order to defray the costs of administration.
 - (ii) After one percent of EHOST proceeds are subtracted to defray the cost of administration, the Revenue Commissioner, as required by O.C.G.A. § 48-8-109.5(c)(2)(A), shall disburse 2018 EHOST proceeds to the County to roll back, and eliminate if possible, the 2018 millage rates for any county ad valorem property tax line items levied uniformly throughout the county on homestead properties, which in this case are commonly referred to as the general fund taxes and taxes to defray the cost of hospital services. Because EHOST proceeds will only be collected for nine months in 2018, the County does not anticipate excess proceeds to be distributed pursuant to O.C.G.A. § 48-8-109.5(c)(2)(B) to the County and all the Municipalities, including that portion of the City of Atlanta located in DeKalb County.
- (B) On or before August 1, 2018, the County shall provide to the Revenue Commissioner and each Municipality, including that portion of the City of Atlanta located in DeKalb County, written certification of the amount of EHOST proceeds necessary to roll back and eliminate the millage rates for all county ad valorem property tax line items levied uniformly throughout DeKalb County on homestead properties.
- (C) On or before August 1, 2018, the County and the Municipalities shall provide to the Revenue Commissioner written certification of the EHOST proceeds necessary to roll back and eliminate if possible: (1) the millage rates for any county ad valorem property tax line items levied only in unincorporated portions of the county on homestead properties; and (2) the millage rates for any municipal ad valorem property tax line items levied in every municipality located wholly or partially in the county on homestead properties but not in unincorporated portions of the county.
- (D) In the event the amount of EHOST proceeds necessary to eliminate the millage rates for all county ad valorem property tax line items identified in O.C.G.A. § 48-8-109.5(c)(2)(A) is reached, the County shall immediately provide written notification to the Revenue Commissioner and the Municipalities, including that portion of the City of Atlanta located in DeKalb County.
- (E) The County and the Municipalities agree that excess proceeds, if any, shall be distributed pursuant to O.C.G.A. § 48-8-109.5(c)(2)(B) to the County and the Municipalities, including that portion of the City of Atlanta located in DeKalb County.

Section 5. 2018 Homestead Exemption

The amount of proceeds used by the County to calculate the 2018 homestead exemption shall be the sum of (1) the amount of 2018 HOST Proceeds remaining after the proceeds dedicated

toward capital outlay projects are subtracted and (2) an amount equal to 75% of the total HOST sales and use taxes collected within DeKalb County during 2017.

Section 6. Effective Date and Term of this Agreement

This Agreement shall commence upon the date of its execution and shall terminate on April 1, 2019, unless amended or superseded.

Section 7. Entire Agreement

This Agreement, including any attachments or exhibits, constitutes all of the understandings and agreements existing between the County and the Municipalities with respect to the distribution and use of the proceeds from the Homestead Option Sales and Use Tax and the Equalized Homestead Option Sales and Use Tax for the 2018 calendar year. Furthermore, this Agreement supersedes all prior agreements, negotiations and communications of whatever type, whether written or oral, between the parties hereto with respect to distribution and use of said HOST and EHOST taxes. No representation oral or written not incorporated in this Agreement shall be binding upon the County or the Municipalities.

Section 8. Amendments

This Agreement shall not be amended or modified except by agreement in writing executed by the County and the Municipalities.

Section 9. Severability, Non-Waiver, Applicable Law, and Enforceability

If a court of competent jurisdiction renders any provision of this Agreement (or portion of a provision) to be invalid or otherwise unenforceable, that provision or portion of the provision will be severed and the remainder of this Agreement will continue in full force and effect as if the invalid provision or portion of the provision were not part of this Agreement. No action taken pursuant to this Agreement should be deemed to constitute a waiver of compliance with any representation, warranty, covenant or agreement contained in this Agreement and will not operate or be construed as a waiver of any subsequent breach, whether of a similar or dissimilar nature. This Agreement is governed by the laws of the State of Georgia without regard to conflicts of law principles thereof. Should any provision of this Agreement require judicial interpretation, it is agreed that the arbitrator or court interpreting or construing the same shall not apply a presumption that the terms hereof shall be more strictly construed against one party by reason of the rule of construction that a document is to be construed more strictly against the party who itself or through its agent prepared the same, it being agreed that the agents of all parties have participated in the preparation hereof.

Section 10. Compliance with Law

During the term of this Agreement, the County and each Municipality shall comply with all State law applicable to the use of the HOST and EHOST proceeds, specifically including O.C.G.A. § 48-8-100 *et seq.* and O.C.G.A. § 48-8-109.1 *et seq.*

Section 11. Dispute Resolution

Any controversy or claim arising out of or relating to this Agreement, or the breach thereof, shall be settled by arbitration administered by the American Arbitration Association in accordance with its Commercial Arbitration Rules and judgment on the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof.

- (A) Claims shall be heard by a single arbitrator, unless the claim amount exceeds \$500,000, in which case the dispute shall be heard by a panel of three arbitrators. Where the claim is to be heard by single arbitrator, the arbitrator shall be selected pursuant to the list process provided for in the Commercial Arbitration Rules unless the parties to the arbitration are able to select an arbitrator independently by mutual agreement. The arbitrator shall be a lawyer with at least 10 years of active practice in commercial law and/or local government law. Where the claim is to be heard by a panel of three arbitrators, selection shall occur as follows. Within 15 days after the commencement of arbitration, the city or cities party to the arbitration shall select one person to act as arbitrator and the County shall select one person to act as an arbitrator. The two selected arbitrators shall then select a third arbitrator within ten days of their appointment. If the arbitrators selected by the parties are unable or fail to agree upon the third arbitrator, the third arbitrator shall be selected by the American Arbitration Association. This third arbitrator shall be a former judge in the State or Superior Courts of Georgia or a former federal district judge.
- (B) The arbitration shall be governed by the laws of the State of Georgia.
- (C) The standard provisions of the Commercial Rules shall apply.
- (D) Arbitrators will have the authority to allocate the costs of the arbitration process among the parties, but will only have the authority to allocate attorneys' fees if a particular law permits them to do so, specifically including O.C.G.A. § 9-15-14.
- (E) The award of the arbitrators shall be accompanied by a written opinion that includes express findings of fact and conclusions of law.

Section 12. No Consent to Breach

No consent or waiver, express or implied, by any party to this Agreement, to any breach of any covenant, condition or duty of another party shall be construed as a consent to or waiver of any future breach of the same.

Section 13. Counterparts

This Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

IN WITNESS WHEREOF, the County and the Municipalities acting through their duly authorized agents have caused this Agreement to be signed, sealed and delivered for final execution by the County on the date indicated herein.

DEKALB COUNTY, GEORGIA

_____(SEAL)
MICHAEL L. THURMOND
Chief Executive Officer

ATTEST:

BARBARA SANDERS-NORWOOD, CCC
Clerk to the Board of Commissioners
and Chief Executive Officer

APPROVED AS TO SUBSTANCE:

**APPROVED AS TO FORM AND
LEGAL VALIDITY:**

ZACHARY L. WILLIAMS
Chief Operating Officer

VIVIANE H. ERNSTES
Interim County Attorney

May 16, 2018

**CITY OF AVONDALE ESTATES,
GEORGIA**

Attest:

_____(SEAL)

Mayor

Municipal Clerk

APPROVED AS TO SUBSTANCE:

**APPROVED AS TO FORM AND
LEGAL VALIDITY:**

City Manager

City Attorney

May 16, 2018

CITY OF BROOKHAVEN, GEORGIA

Attest:

_____(SEAL)
Mayor

Municipal Clerk

APPROVED AS TO SUBSTANCE:

**APPROVED AS TO FORM
AND LEGAL VALIDITY:**

City Manager

City Attorney

May 16, 2018

CITY OF CHAMBLEE, GEORGIA

Attest:

_____(SEAL)

Mayor

Municipal Clerk

APPROVED AS TO SUBSTANCE:

**APPROVED AS TO FORM
AND LEGAL VALIDITY:**

City Manager

City Attorney

May 16, 2018

CITY OF CLARKSTON, GEORGIA

Attest:

_____(SEAL)

Mayor

Municipal Clerk

APPROVED AS TO SUBSTANCE:

**APPROVED AS TO FORM
AND LEGAL VALIDITY:**

City Manager

City Attorney

May 16, 2018

CITY OF DECATUR, GEORGIA

Attest:

_____(SEAL)

Mayor

Municipal Clerk

APPROVED AS TO SUBSTANCE:

**APPROVED AS TO FORM
AND LEGAL VALIDITY:**

City Manager

City Attorney

May 16, 2018

CITY OF DORAVILLE, GEORGIA

Attest:

_____(SEAL)

Mayor

Municipal Clerk

APPROVED AS TO SUBSTANCE:

**APPROVED AS TO FORM
AND LEGAL VALIDITY:**

City Manager

City Attorney

May 16, 2018

CITY OF LITHONIA, GEORGIA

Attest:

_____(SEAL)

Mayor

Municipal Clerk

APPROVED AS TO SUBSTANCE:

**APPROVED AS TO FORM
AND LEGAL VALIDITY:**

City Manager

City Attorney

May 16, 2018

CITY OF PINE LAKE, GEORGIA

Attest:

_____(SEAL)

Mayor

Municipal Clerk

APPROVED AS TO SUBSTANCE:

**APPROVED AS TO FORM
AND LEGAL VALIDITY:**

City Manager

City Attorney

May 16, 2018

**CITY OF STONE MOUNTAIN,
GEORGIA**

Attest:

_____(SEAL)

Mayor

Municipal Clerk

APPROVED AS TO SUBSTANCE:

**APPROVED AS TO FORM
AND LEGAL VALIDITY:**

City Manager

City Attorney

May 16, 2018

CITY OF STONECREST, GEORGIA

Attest:

_____(SEAL)

Mayor

Municipal Clerk

APPROVED AS TO SUBSTANCE:

**APPROVED AS TO FORM
AND LEGAL VALIDITY:**

City Manager

City Attorney

May 16, 2018

CITY OF TUCKER, GEORGIA

Attest:

_____(SEAL)

Mayor

Municipal Clerk

APPROVED AS TO SUBSTANCE:

**APPROVED AS TO FORM
AND LEGAL VALIDITY:**

City Manager

City Attorney