

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

WORK SESSION AGENDA

September 13, 2017

6: 00P.pm.

Stonecrest Library

3123 Klondike Road, Lithonia, Georgia

I. CALL TO ORDER: Mayor Jason Lary

II. ROLL CALL: Brenda James, Interim City Clerk

III. ADOPTION OF THE CITY COUNCIL AGENDA:

IV. AGENDA ITEMS:

1. Discussion of Ordinance to Adopt Chapter 1- General Provisions of the Code of Ordinances of the City of Stonecrest, Georgia
2. Discussion of Ordinance to Adopt Chapter 2- Administration of the Code of Ordinances of the City of Stonecrest, Georgia
3. Discussion of Ordinance Adopting Chapter 24 Taxation, Article 1 to Adopt Insurance License Fees and premium Tax Regulations
4. Discussion of Ordinance Adopting Fees for Annexation Applications for the City of Stonecrest
5. Discussion of Ordinance to Amend the Schedule of Fees for Business, Alcohol and other Licenses and Permits in the City of Stonecrest
6. Discussion of Ordinance to Amend Chapter 4-Alchoolic Beverages of the City of Stonecrest, Georgia Code of Ordinances
7. Discussion of Financial Management Policies Purchasing Policy

V. CITY MANAGER COMMENTS:

VI. CITY ATTORNEY COMMENTS:

VII. MAYOR AND COUNCIL COMMENTS:

VIII. ADJOURNMENT:

IX. EXECUTIVE SESSION:

**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: Ordinance to Adopt Chapter 1- General Provisions of the Code of Ordinances of the City of Stonecrest, Georgia

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

Date Submitted: 08/31/2017 Work Session: 09/13/2017 Council Meeting: 09/18/2017

SUBMITTED BY: Attorney Laura Cosgray

PURPOSE:

HISTORY:

FACTS AND ISSUES:

OPTIONS:

RECOMMENDED ACTION: First Read Only

STATE OF GEORGIA
COUNTY OF DEKALB
CITY OF STONECREST

ORDINANCE 2017-_____

**AN ORDINANCE TO ADOPT CHAPTER 1 – GENERAL PROVISIONS, OF THE
CODE OF ORDINANCES OF THE CITY OF STONECREST, GEORGIA**

WHEREAS, pursuant to Section 2.11(b) of the Charter of the City of Stonecrest, Georgia, in addition to all other powers conferred upon it by law, the city council shall have the authority to adopt and provide for the execution of such ordinances, resolutions, policies, rules, and regulations, not inconsistent with the charter and the Constitution and the laws of the State of Georgia, which it shall deem necessary, expedient, or helpful for the peace, good order, protection of life and property, health, welfare, sanitation, comfort, convenience, prosperity, or well-being of the inhabitants of the City of Stonecrest and may enforce such ordinances by imposing penalties for violation thereof; and

WHEREAS, the Mayor and City Council find it desirable and necessary, expedient, and helpful for the peace, good order, protection of life and property, health, welfare, sanitation, comfort, convenience, prosperity, or well-being of the inhabitants of the City of Stonecrest to approve and adopt Chapter 1 – *General Provisions* of the Code of Ordinances of the City of Stonecrest, Georgia, as provided herein.

SECTION 1:

BE IT ORDAINED by the Mayor and Council of the City of Stonecrest, Georgia, and it is hereby ordained by authority of same, Chapter 1 – *General Provisions* is hereby adopted as follows:

“Chapter 1 - GENERAL PROVISIONS

Sec. 1-1. - How Code designated and cited.

The ordinances embraced in this and the following chapters and sections shall constitute and be designated "The Code of the City of Stonecrest, Georgia," and may be so cited. This Code may also be referred to by the shortened form the "Stonecrest Code" or the "City Code".

Sec. 1-2. - Definitions and rules of construction.

The following definitions and rules of construction shall apply to all ordinances and resolutions of the city council unless the context requires otherwise:

Generally. The ordinary signification shall be applied to all words, except words of art, or words connected with a particular trade or subject matter when they shall have the signification attached to them by experts in such trade or with reference to such subject matter. In all interpretations the courts shall look diligently for the intention of the city council, keeping in view, at all times, the old law, the evil, and the

remedy. Grammatical errors shall not vitiate, and a transposition of words and clauses may be resorted to when the sentence or clause is without meaning as it stands.

Liberal construction; minimum requirements; overlapping provisions. All general provisions, terms, phrases and expressions contained in this Code shall be liberally construed in order that the true intent and meaning of the city council may be fully carried out. In the interpretation and application of any provision of this Code, they shall be held to be the minimum requirements adopted for the promotion of the public health, safety, comfort, convenience and general welfare. Where any provision of this Code imposes greater restrictions upon the subject matter than the other provisions of this Code, the provision imposing the greater restriction or regulation shall be deemed to be controlling.

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

Adequate. The term "adequate" means equal to what is required, suitable to the case or occasion, fully sufficient, proportionate, satisfactory.

Aforesaid. The term "aforesaid" usually means next before, unless the context requires a different signification.

All. The term "all" means everyone, or the whole number of particulars.

Also. The term "also" means "in like manner," "likewise," "in addition," "besides," "as well," "further," "too."

As soon as possible. The term "as soon as possible" means within a reasonable time, having due regard to all the circumstances.

City. The term "city" means the City of Stonecrest, Georgia.

City limits or corporate limits. The term "city limits" or "corporate limits" means the corporate limits (legal boundary) of the City.

Code. The term "Code" means The Code of the City of Stonecrest, Georgia.

Computation of time. Except as otherwise provided by time period computations specifically applying to other laws, when a period of time measured in days, weeks, months, years, or other measurements of time except hours is prescribed for the exercise of any privilege or the discharge of any duty, the first day shall not be counted but the last day shall be counted; and, if the last day falls on Saturday or Sunday, the party having such privilege or duty shall have through the following Monday to exercise the privilege or to discharge the duty. When the last day prescribed for such action falls on a public and legal holiday as set forth in state law, the party having the privilege or duty shall have through the next business day to exercise the privilege or to discharge the duty. When the period of time prescribed is less than seven days, intermediate Saturdays, Sundays, and legal holidays shall be excluded in the computation.

Conjunctions. Where a provision involves two or more items, conditions, provisions or events connected by the conjunction "and," "or" or "either...or," the conjunction shall be interpreted as following, provided in appropriate cases the terms "and" and "or" are interchangeable:

- (1) The term "and" indicates that all the connected items, conditions, provisions or events shall apply.
- (2) The term "or" indicates that the connected items, conditions, provisions or events may apply singly or in any combination.
- (3) The term "either...or" indicates that the connected items, conditions, provisions or events shall apply singly, but not in combination.

Council. The term "council" or "city council" means the five councilmembers and the mayor.

Councilmember. The term "councilmember" refers to the individual members of the city council, including the mayor.

County. The term "County" means DeKalb County, Georgia.

Delegation of authority. Whenever a provision appears requiring a city officer or city employee to do some act, it is to be construed to authorize the officer or employee to designate, delegate and authorize subordinates to perform the required act.

Department. The term "department" means an administrative department of city government. When appropriate, "department" means the director of the department or the director's designee.

Director. The term "director" refers to the director of an administrative department or the director's designee. The term is synonymous with department head.

Fee schedule. The term "fee schedule" means the official consolidated list of city fees and other charges adopted by the council that lists rates and fees for city services as determined from time to time by the city council. A copy of the city fee schedule is available in the office of the city clerk.

Finance department, department of finance. The terms "finance department" and "department of finance" are synonymous.

Finance director, director of finance. The terms "finance director" and "director of finance" are synonymous.

Fire Department. The term "fire department" shall refer to the County fire department which provides services to the city.

Following. The term "following" means next after.

Gender. A word importing the masculine gender only shall extend and be applied to females and to firms, partnerships and corporations as well as to males.

Governing authority, governing body. The terms "governing authority" or "governing body" mean the mayor and city council of the City of Stonecrest, Georgia.

Joint authority. A joint authority given to any number of persons, or officers, may be executed by a majority of them, unless it is otherwise declared.

Judge. The term "judge" means the municipal judge.

Keeper and proprietor. The terms "keeper" and "proprietor" mean and include persons, whether acting by themselves or as a servant, agent or employee.

May. The term "may" is to be construed as being permissive.

Month. The term "month" means a calendar month.

Must. The term "must" is to be construed as being mandatory.

Number. The singular and plural number include the other, unless expressly excluded.

O.C.G.A., state acts. The abbreviation "O.C.G.A." means the Official Code of Georgia Annotated, as amended. A reference to a state act, whether by year and act number, year, act number and page, year and page or short title, is a reference to such act as amended.

Oath. The term "oath" includes an affirmation.

Officials, employees, boards, commissions, or other agencies. Whenever reference is made to officials, employees, boards, commissions or other agencies by title only, the reference refers to the officials, employees, boards, commissions or other agencies of the city, or other political subdivision when acting under an intergovernmental agreement represents the city.

Ordinance. The term "ordinance" means a legislative act of the municipal governing body of a general and permanent nature.

Owner. The term "owner," applied to a building or land, includes any part owner, joint owner, tenant in common, tenant in partnership or joint tenant of the whole or of a part of the building or land.

Person. The term "person" includes any association, club, society, firm, corporation, partnership and body politic and corporate as well as an individual.

Personal property. The term "personal property" includes every species of property except real property.

Police. The term "police" means the police department of the County which is serving as the police force for the city, until such time as the city has its own police department, unless specified otherwise in the Code.

Preceding. The term "preceding" means next before.

Property. The term "property" includes real and personal property.

Public place. The term "public place" includes any place that the public is invited or permitted to go or congregate.

Real property. The term "real property" includes lands, tenements and hereditaments.

Resolution. The term "resolution" means a legislative act of the city governing authority of a special or temporary character.

Shall. The term "shall" is to be construed as being mandatory.

Sidewalk. The term "sidewalk" means any portion of a street between the curblin and the adjacent property line, intended for the use of pedestrians, excluding parkways.

Signature or subscription. A "signature" or "subscription" includes the mark of an illiterate or infirm person.

State. The term "state" means the State of Georgia.

Street or road. The term "street" or "road" includes any street, avenue, boulevard, road, alley, lane, viaduct and any other public highway in the city, including, but not limited to, the paved or improved surfaces thereof.

Tenant, occupant. The term "tenant" or "occupant," applied to a building or land, includes any person holding a written or oral lease of, or who occupies, the whole or a part of a building or land, either alone or with others.

Tense. Words used in the past or present tense include the future as well as the past and present.

Until a certain day. The term "until a certain day" includes all of such day.

Week. The term "week" means seven days.

Whereas. The term "whereas" means "considering that."

Will. The term "will" is to be construed as being mandatory.

Writing. The term "writing" includes printing and all numerals.

Year. The term "year" means a calendar year.

Sec. 1-3. - Prohibition of sexist connotations.

It is the intent of the city council that all city ordinances and resolutions shall be interpreted in an equal and nondiscriminatory manner to persons of both the male and female sexes. In furtherance of that intent, any term or phrase having a sexist connotation which may be contained in any existing city ordinance or resolution shall be interpreted and applied in a sex-neutral manner. Future amendments and revisions to city resolutions and ordinances shall likewise be written, interpreted and applied in a sex-neutral manner.

Sec. 1-4. - Catchlines of sections, history notes and references in Code.

- (a) The catchlines of the several sections of this Code in boldface type are intended as mere catchwords to indicate the contents of the sections and shall not be deemed or taken to be titles of such sections, nor as any part of such sections nor, unless expressly so provided, shall they be so deemed when any of such sections, including the catchlines, are amended or reenacted.
- (b) Any history or source notes appearing in parentheses after sections in this Code are not intended to have any legal effect but are merely intended to indicate the source of matter contained in the section. Cross references and state law references which may appear after sections or subsections of this Code or which otherwise appear in footnote form are provided for the convenience of the user of this Code and have no legal effect.
- (c) All references to chapters, articles or sections are to the chapters, articles and sections of this Code unless otherwise specified.

Sec. 1-5. - Territorial applicability.

Except as specifically provided otherwise, this Code only applies in the incorporated areas of the city.

Sec. 1-6. - Effect of repeal of ordinance.

- (a) The repeal of an ordinance shall not revive any ordinance in force before or at the time the ordinance repealed took effect.
- (b) The repeal of an ordinance does not affect any punishment or penalty incurred before the repeal took effect, or any suit, prosecution or proceeding pending at the time of the repeal for an offense committed under the repealed ordinance.

Sec. 1-7. - Amendments; effect of new ordinances; amendatory language.

- (a) All ordinances adopted subsequent to this Code that amend, repeal or in any way affect this Code may be numbered in accordance with the numbering system of this Code and printed for inclusion herein. In the case of repealed chapters, sections and subsections or any part thereof, by subsequent ordinances and resolutions, such repealed portions may be excluded from the Code by omission from repealed pages affected thereby. The subsequent ordinances and resolutions as numbered and printed or omitted, in the case of repeal, shall be prima facie evidence of such subsequent ordinances and resolutions until such time that this Code and subsequent ordinances numbered or omitted are readopted as a new Code.
- (b) Amendments to any of the provisions of this Code may be made by amending such provisions by specific reference to the section number of this Code in the following language: "Section _____ of The Code of the City of Stonecrest, Georgia, is hereby amended to read as follows:" The new provisions may then be set out in full as desired.
- (c) If a new section not heretofore existing in the Code is to be added, the following language may be used: "The Code of the City of Stonecrest, Georgia, is hereby amended by adding a section (or chapter, article, division or subdivision, as appropriate) numbered _____, that reads as follows:" The new material may then be set out in full as desired.

- (d) All sections, subdivisions, divisions, articles or chapters desired to be repealed should be specifically repealed by section, subdivision, division, article or chapter number, as the case may be.

Sec. 1-8. - Supplementation of Code.

- (a) Supplements to this Code shall be prepared and printed whenever authorized or directed by the city council or its designee. A supplement to the Code shall include all substantive permanent and general parts of ordinances adopted during the period covered by the supplement and all changes made thereby in the Code. The pages of a supplement shall be so numbered that they will fit properly into the Code and will, where necessary, replace pages which have become obsolete or partially obsolete, and the new pages shall be so prepared that, when they have been inserted, the Code will be current through the date of the adoption of the latest ordinance included in the supplement.
- (b) In preparing a supplement to this Code, all portions of the Code which have been repealed shall be excluded from the Code by the omission thereof from reprinted pages.
- (c) When preparing a supplement to this Code, the person authorized to prepare the supplement may make formal, nonsubstantive changes in ordinances and parts of ordinances included in the supplement, insofar as it is necessary to do so to embody them into a unified code. For example, the person may:
 - (1) Organize the ordinance material into appropriate subdivisions;
 - (2) Provide appropriate catchlines, headings and titles for sections and other subdivisions of the Code printed in the supplement, and make changes in such catchlines, headings and titles;
 - (3) Assign appropriate numbers to sections and other subdivisions to be inserted in the Code and, where necessary to accommodate new material, change existing section or other subdivision numbers;
 - (4) Change the words "this ordinance" or words of the same meaning to "this chapter," "this article," "this division," etc., as the case may be, or to "sections _____ to _____" (inserting section numbers to indicate the sections of the Code which embody the substantive sections of the ordinance incorporated into the Code); and
 - (5) Make other nonsubstantive changes necessary to preserve the original meaning of ordinance sections inserted into the Code.
- (d) In no case shall the person make any change in the meaning or effect of ordinance material included in the supplement or already embodied in the Code.

Sec. 1-9. - Severability.

It is hereby declared to be the intention of the city council that the sections, paragraphs, sentences, clauses and phrases of this Code are severable, and if any phrase, clause, sentence, paragraph or section of this Code shall be declared unconstitutional, invalid or otherwise unenforceable by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality, invalidity or unenforceability shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Code, since the same would have been enacted by the city council without the incorporation in this Code of any such unconstitutional, invalid, or unenforceable phrase, clause, sentence, paragraph or section.

Sec. 1-10. - Altering Code.

- (a) It is unlawful for any person in the city to change or amend by additions or deletions, any part or portion of the official version of this Code, or to insert or delete pages or portions thereof, or to alter or tamper with the official version of this Code in any manner whatsoever which will cause the law of the city to be misrepresented thereby.
- (b) It shall be unlawful for any person to deface, mutilate, or in any manner alter any other official document or record of the municipal government.

Sec. 1-11. - General penalty; continuing violations.

- (a) In this section, the term "violation of this Code" or "violation of any such provision of this Code or any such ordinance" means:

- (1) Doing an act that is prohibited or made or declared unlawful, an offense or a violation or a misdemeanor by ordinance, by statute adopted by reference in this Code, by state rule or regulation adopted by reference in this Code, or by rule or regulation authorized by ordinance;
- (2) Failure to perform an act that is required to be performed by ordinance, by statute adopted by reference in this Code, by state rule or regulation adopted by reference in this Code or by rule or regulation authorized by ordinance; or
- (3) Failure to perform an act if the failure is prohibited or is made or declared a violation or a misdemeanor or an offense or unlawful by ordinance or by statute adopted by reference in this Code, by state rule or regulation adopted by reference in this Code, or by rule or regulation authorized by ordinance.

- (b) In this section, the term "violation of this Code" or "violation of any such provision of this Code or any such ordinance" does not include the failure of a city officer or city employee to perform an official duty, unless it is provided that failure to perform the duty is to be punished as provided in this section or it is clear from the text that it is the intent to impose the penalty provided for in this section upon the officer or employee.

- (c) Except as otherwise provided:

- (1) A person convicted of a violation of this Code shall be punished by a fine not exceeding \$1,000.00, imprisonment for a term not exceeding 120 days or any combination thereof.
- (2) With respect to violations of this Code that are continuous with respect to time, each day the violation continues is a separate offense.
- (3) With respect to violations of this Code that are not continuous with respect to time, each day the violation continues is a separate offense.

- (d) All fines shall be paid into the city treasury.

- (e) The imposition of a penalty does not prevent revocation or suspension of any city issued registration, business occupation tax certificate, license, permit or franchise or other administrative sanctions. So long as a fine remains unpaid and outstanding, and not the subject of any appeal, an application for any city issued registration, business occupation tax certificate, license, permit, franchise, variance, sketch plat, amendment to the comprehensive plan land use map, amendment to the official zoning map, rezoning, special administrative permit, or special land use permit may not be accepted by any city employee or issued by any city employee, official, board, commission or other city or county entity if such application relates to the person who owes the fine as reflected in the municipal court records or the land on which the violation has been shown to exist.

- (f) Violations of this Code that are continuous with respect to time are a public nuisance and may be abated by injunctive or other equitable relief and by such other means as are provided by law. The imposition of a penalty does not prevent equitable relief.

Sec. 1-12. - Matters not affected by Code.

Nothing in this Code or the ordinance adopting this Code shall affect:

- (1) Any offense or act committed or done or any penalty or forfeiture incurred or any contract or right established or accruing before the effective date of this Code.
- (2) Any ordinance promising or guaranteeing the payment of money for the city or authorizing the issuance of any bonds for the city, or any evidence of the city's indebtedness, or any contract or obligation assumed by the city.
- (3) Any right or franchise granted by the city to any person.
- (4) Adopting or amending the comprehensive plan.
- (5) Any ordinance dedicating, naming, defining, establishing, locating, relocating, opening, paving, widening, vacating, etc., any street or public way in the city.
- (6) Any appropriation or ordinance authorizing appropriations or gifts.
- (7) Any legislation providing for local improvements or assessing taxes therefor.
- (8) Any ordinance dedicating, accepting or vacating any plat or subdivision.
- (9) Any ordinance rezoning property or otherwise pertaining to zoning.
- (10) Any ordinance providing for salaries or compensation of city officers or employees not in this Code.
- (11) Any ordinance approving any appropriation or budget.
- (12) The administrative ordinances or resolutions of the city not in conflict or inconsistent with the provisions of this Code.
- (13) Any ordinance adopted for purposes that have been consummated.
- (14) Any ordinance that is temporary, although general in nature.
- (15) Any ordinance that is special, although permanent in nature.
- (16) Any ordinance levying, imposing or otherwise relating to taxes.
- (17) Any ordinance amending any act enacted by the general assembly of the State.

Sec. 1-13. - Code does not affect prior offenses, rights, etc.

- (a) Nothing in this Code or the ordinance adopting this Code shall affect any offense or act committed or done, or any penalty or forfeiture incurred, or any contract or right established or accruing before the effective date of this Code.
- (b) The adoption of this Code shall not be interpreted as authorizing or permitting any use or the continuance of any use of a structure or premises in violation of any ordinance in effect on the date of adoption of this Code.

Sec. 1-14. – Rates, charges and fees established.

- (a) Unless otherwise provided for, all rates, charges, or fees necessary for the administration and enforcement of the provisions of this Code shall be as currently established or as hereafter adopted by motion, resolution or ordinance of the city council, from time to time. Any rates, charges, or fees established by the city pursuant to the regulations or requirement established herein may be changed from time to time by the city council, and such changes shall both be considered an amendment to this Code.
- (b) Whenever any provision of this Code provides that a rate, charge, or fee shall be established by the city council, from time to time, and the amount of such rate, charge, or fee is not expressed in this Code in any dollar amount, then the amount of such rate, charge, or fee shall be the most recent and latest amount established, set or fixed by the city council by ordinance, resolution or motion.

Sec. 1-15. Provisions considered as continuations of existing ordinances.

The provisions appearing in this Code, insofar as they are the same as those of ordinances and resolutions existing at the time of adoption of this Code, shall be considered as continuations thereof and not as new enactments.”

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. This 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 _____, 2017.

Approved:

Jason Lary, Sr., Mayor

Thompson Kurrie, Jr., City Attorney

Attest:

Brenda James, City Clerk



CITY COUNCIL AGENDA ITEM

SUBJECT: Ordinance to Adopt Chapter 2 -Administration of the City of Stonecrest in the Code of Ordinances of the City of Stonecrest, Georgia

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

Date Submitted: 08/31/2017 Work Session: 09/13/2017 Council Meeting: 09/18/2017

SUBMITTED BY: Attorney Destiny Washington

PURPOSE:

HISTORY:

FACTS AND ISSUES:

OPTIONS:

RECOMMENDED ACTION: First Read Only

**ORDINANCE OF THE CITY OF STONECREST, GEORGIA, ADOPTING CHAPTER 2,
ADMINISTRATION, OF THE CITY CODE.**

WHEREAS, the City of Stonecrest, Georgia Mayor and City Council are authorized by the City Charter to adopt ordinances for administration of the City, to create departments of the City and its boards and commissions, and to provide for the financial administration of the City; and

WHEREAS, this Ordinance shall be adopted as part of the City of Stonecrest City Code, as Chapter 2, Administration.

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

Section 1: The Mayor and City Council of the City of Stonecrest, Georgia hereby adopt an ordinance designated as “Chapter 2, Administration” as follows:

CHAPTER 2 - ADMINISTRATION

“ARTICLE I. - IN GENERAL

Sec. 2-1. - Meetings.

(a) *Meeting times.* As described in section 2.09 of the Charter, the council shall meet at least once a month.

(b) *Meetings scheduled on a federal or state holiday.* If the regular meeting falls on a federal or state holiday, the council may reschedule the meeting and publish the time change as described in subsection (a) of this section.

(c) *Special meetings.* Special meetings may be called in accordance with the Charter provision section 2.09.

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(d) *Meetings adjourned.* Any meeting of the council may be recessed and continued on any day or hour. The city council may fix and may transact any business at such continued meeting as may be transacted at a regular meeting.

Sec. 2-2. - Open meetings and records; records fees.

(a) All meetings shall be held in accordance with the Georgia Open and Public Meetings Act, O.C.G.A. § 50-14-1 et seq.

(b) All city records subject to the Georgia Open Records Act, O.C.G.A. § 50-18-70 et seq., shall be available to the public. The city clerk shall comply with any valid requests under state law and prepare any materials requested.

(c) The city clerk shall charge the full amount permitted by state law to copy the records subject to state open records law. If compilation and replication of such documents takes more than 15 minutes, the city clerk may charge an additional reasonable administrative charge as authorized by the Georgia Open Records Act.

Sec. 2-3. - Document retention.

Pursuant to the Georgia Records Act, O.C.G.A. § 50-18-90 et seq., the city adopts the records management plan and record retention schedules recommended by the secretary of state as amended from time to time by future resolutions of the mayor and council of the city. The city clerk shall coordinate all records management for the city including storage, archiving and destruction of records. Records shall be maintained according to approved retention schedules. All requests made under the Georgia Open Records Act, O.C.G.A. § 50-18-70 et seq., excepting standardized routine requests of the city's municipal court shall be made to the city clerk. No record shall be destroyed except as provided in the approved retention schedule, provided, however, a written record may be destroyed if it is otherwise preserved by means of microfiche,

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scanning or other reliable photographic or digital means as permitted by law. Changes to the retention schedules shall be adopted by resolution of the mayor and council.

Sec. 2-4. - Subpoenas.

(a) The council or an approved committee thereof, when sitting as a judicial or quasi-judicial body pursuant to public law, its charter or its ordinances, shall compel the attendance of witnesses by subpoena under the same rules that prevail in the superior courts, and any witness who shall fail to respond to the subpoena or who shall refuse to testify under oath, shall be guilty of contempt.

(b) The subpoenas as authorized in the preceding section shall bear witness in the name of the mayor, shall be issued by the city clerk, and shall be served in accordance with Georgia law.

(c) Should any person fail to respond to a subpoena of the council, after having been lawfully served, without good cause, or should the person refuse to testify under oath, then the council shall hold the person in contempt, and, in their discretion, punish the person by the imposition of a fine according to the maximum allowed by state law. Each of the failures or refusals herein described shall constitute a separate contempt.

Sec. 2-5. - Reimbursement and travel.

(a) *Business related travel.* The mayor and councilmembers shall be reimbursed for their own reasonable travel expenses incurred in connection with city business related to travel outside the city.

(b) *Overnight travel.* The city shall reimburse the mayor or councilmembers for actual expenses of meals incurred in connection with overnight travel, lodging, ground transportation and incidental expenses incurred in connection with city business.

(c) *Expense reports.* Within 60 days after incurring the aforementioned expenditures, the mayor or councilmembers shall file with the city manager a signed travel expense form setting forth the reasonable expenses incurred for which city payment is sought. Original receipts documenting each expense over \$10.00 must accompany the form, except for reasonable and customary out-of-pocket expenses such as tolls, valet services, gratuities and mileage. If a travel expense form has not been filed within 60 days after incurring an expenditure, the city shall not reimburse such expenses.

(d) *Maximum expense.* Notwithstanding any provision to the contrary, no expense shall be reimbursed that exceeds the maximum expense amount allowed by the Charter.

Secs. 2-6—2-28. - Reserved.

ARTICLE II. - PERSONNEL

Sec. 2-29. - Personnel manual.

The city manager shall establish a personnel manual for all municipal employees. In addition to sections deemed necessary by the city manager, the manual shall include policies regarding equal employment opportunity, nondiscrimination and sexual harassment. The manual will be updated from time to time as required by federal and state laws.

Sec. 2-30. - Categorization of city and contract employees.

(a) *Municipal employees generally.* In general, municipal employees shall be categorized as full-time, part-time or by terms decided by contract with the city.

(b) *City employees.* Full-time employees will be paid an hourly salary, weekly salary, or some other pay rate; part-time employees will work at irregular intervals on a short-term basis; and temporary workers will be hired to fill a temporary need for a specified period of time.

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(c) *Contract employees.* The city manager shall have the authority to propose contractual employment relationships between the city and third parties. The terms of these third party contracts will be established by the contract at the time of hiring. The council must approve a contract worth more than \$25,000.00. Issues of liability and scope of agency are to be defined by the contract.

Sec. 2-31. - Job descriptions.

The city shall maintain a job specification for each position held by a municipal employee. The city may provide a job specification for contracted positions. Such specification shall describe the duties of the position, the qualifications necessary, licenses required, to whom such employee reports, expected salary range, and such other information as is necessary to recruit for such position effectively. Such specifications may be amended from time to time by the city manager.

Sec. 2-32. - Benefits.

It shall be the policy of the city to attract and retain a qualified workforce through the provision of a comprehensive package of benefits. To that end, the city shall be authorized to contract with benefits providers for the purpose of providing insurance, retirement, pension plans and other benefits deemed necessary by the council upon approval of the benefit program by the city council. Eligibility for benefits and the cost to employees shall be specified in the personnel manual.

Sec. 2-33. - Records.

The city shall keep such records and make such reports as may be required by applicable state or federal laws or regulations.

Secs. 2-34—2-54. - Reserved.

114

115 **ARTICLE III. - DEPARTMENTS**

116 **Sec. 2-55. - Authorization.**

117 The following departments are established by the council:

118 (1) Administration;

119 (2) Community Development and Building Department;

120 (3) Finance;

121 (4) Public Works;

122 (5) Parks and Recreation; and

123 (6) Information Technology.

124 One or more departments may be combined to form one or more multifunctional departments.

125 **Sec. 2-56. - Right of contract.**

126 The City may contract with third parties to provide all or portions of the functions of any
127 municipal department.

128 **Sec. 2-57. - Oversight.**

129 There shall be a director of each department or agency who shall be its principal officer.
130 Each director shall, subject to the direction and supervision of the city manager, be responsible
131 for the administration and direction of the affairs and operations of the director's department or
132 agency.

133 **Sec. 2-58. - Policies and procedures.**

134 The director of each department, or designee, shall establish policies and procedures
135 regarding the functions and duties of each department, which shall be approved by the city
136 manager.

Sec. 2-59. State and national criminal background checks.

(a) Wherever in this Code a requirement for obtaining any license or permit from the city requires a fingerprint-based background check, the process of acquiring and utilizing same shall be in accordance with this section and all applicable Georgia Bureau of Investigation ("GBI") requirements in addition thereto.

(b) An applicant for any license or permit that is required under a provision of this Code to undergo a "fingerprint-based background check," shall submit two sets of his/her fingerprints taken by any law enforcement agency in the United States to the city manager or designee, along with appropriate fees for the fingerprint-based background check.

(c) Upon receipt of the fingerprints and the appropriate fees, the city manager or designee will transmit both sets of fingerprints and the appropriate fees to the City's Police Department, who will then submit them to the Georgia Bureau of Investigation ("GBI"), who will conduct a state-wide background check. The GBI will then transfer the same to the Federal Bureau of Investigation ("FBI") for a comparison with nationwide records. The results of the FBI check will be returned to the GBI, who will return the full search results to the Police Department. The Police Department shall then transmit to the city manager or designee any potentially disqualifying results received from the GBI by writing same on the background check consent form. The Police Department shall retain, until the conclusion of the licensing year for the license or permit applied for a copy of the fingerprint cards, results received from the GBI and the background check consent form.

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(d) In rendering a fitness determination for approval or denial of a license or permit, the city manager or designee will determine, based on the results received from the GBI, whether the record subject has been convicted, plead guilty or nolo contendere, to the disqualifiers as stated in the applicable section of this Code governing the specific licensing or permitting process. The city shall keep a copy of the application and background check consent form as required by the city's document retention schedule.

(e) A record subject may request and receive a copy of his/her criminal history record information from the Police Department. Should the record subject seek to amend or correct his/her record, he/she must contact the GBI for a State of Georgia record or the FBI for records from other jurisdictions maintained in its file.

Secs. 2-60—2-87. - Reserved.

ARTICLE IV. - BOARDS, COMMISSIONS, AUTHORITIES AND SIMILAR BODIES

DIVISION 1. - GENERALLY

Sec. 2-88. - Creation.

There may be created a board of zoning appeals, a design review board, a historic preservation board, a planning commission, a construction board of appeals, and an alcohol licensing and appeals board, which shall have the powers and duties and be subject to and governed by the regulations set forth in this article and this Code. The duties of each board are defined in the corresponding city Code section.

Sec. 2-89. - Composition.

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All board members must be appointed by the mayor and approved by the council, except where other appointing authority, term of office, or manner of appointment is prescribed by the Charter or applicable state law.

Sec. 2-90. - Membership.

(a) The council shall determine by resolution the number of members of each board or commission. Except as provided in subsection (b) of this section, the council shall establish qualifications for members of each board. Each board member shall be nominated by the mayor and approved by the council. The council shall determine if and at what amount board members will be compensated.

(b) Except as otherwise provided herein, each board or commission member must be a resident of the city. Should the board member move out of the city, he may remain active until the mayor and council appoint his/her replacement.

(c) Members must attend two-thirds of meetings in a calendar year. Failure to do so warrants removal from the board.

Sec. 2-91. - Terms.

(a) Each member shall serve a specified term of not more than four years. Consecutive terms are permissible, and terms may be staggered. Each member, but the mayor and councilmembers that may serve on a board, shall have equal terms of an amount to be specified by the mayor.

(b) Except as provided by state law or the City Charter, up to two members of the city council, including the mayor, may be appointed by the mayor and may serve as ex-officio members without a vote on a board or commission, unless said appointment would violate the Conflict of Interest provisions of the City Charter or the City Code of Ethics, for a term expiring

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December 31st following the date of appointment. A former councilmember or former mayor may serve on a board.

(c) Members filling vacancies shall serve the remainder of the term to which they were appointed. A consecutive appointment is permissible. Members whose terms expire shall continue to serve until a replacement is appointed or a consecutive appointment is made.

(d) Any member may be removed for cause by the mayor and a majority of the council.

Sec. 2-92. - Quorum.

A majority of actual board members establishes a quorum. Any action taken requires a majority of affirmative votes of the quorum present.

Sec. 2-93. - Procedure.

(a) Each of the boards shall adopt its rules of procedure, which shall be substantially similar to the rules of procedures of the city council, and determine its time of meetings. The date and time of each meeting as well as agenda items to be considered shall be publicized in the same manner as meetings of mayor and council.

(b) Each of the boards shall elect, annually, at its first meeting of the calendar year, one of its members to serve as chairperson and one to serve as vice chairperson. Each board or commission shall also appoint a secretary to serve as the official record keeper for the board or commission. The secretary of the Planning Commission, the Zoning Board of Appeals and the Construction Board of Appeals may be the director of Community Development or its designee.

(c) All meetings at which official action is taken shall be open to the public and all records maintained by the committee shall be public records unless expressly excepted by a provision of the Georgia Open Records Act, O.C.G.A. § 50-18-70 et seq. The boards shall

keep minutes of their formal proceedings, showing the vote of each member upon each question and records of their examinations and other official actions, all of which shall be filed in the office of the city clerk. Copies of the minutes shall be sent to the mayor and each member of the council. The minutes of the meetings shall be a public record. This section shall not be construed as prohibiting closed sessions when permitted by the state open meetings and open records acts.

Sec. 2-94. - Training.

The council may establish a mandatory training program for board members.

Secs. 2-95—2-136. - Reserved.

ARTICLE V. - ADVISORY COMMITTEES

Sec. 2-137. - Authorization.

The mayor may establish advisory committees. Each committee may have one or more councilmembers. The mayor is an ex-officio member of every committee. The city manager or a designee shall oversee the meetings of each committee and is an ex-officio, non-voting member of each.

Sec. 2-138. - Duties.

(a) Each committee may, from time to time, propose policies and ordinances to the council in the subjects germane to the committee.

(b) This section shall not be interpreted to require committee approval for a measure to be heard before the council.

(c) Members must attend two-thirds of meetings in a calendar year. Failure to do so warrants removal from the committee.

249 **Sec. 2-139. - Membership.**

250 (a) Except as provided in subsection (b) of this section, the mayor shall establish qualifications
251 for members of each committee. Each committeeperson shall be nominated by the mayor
252 and approved by the council.

253 (b) Each committee member must be either a resident of the city or an owner or officer of a
254 business domiciled in the city. Should the committee member move out of the city or no
255 longer be an owner or an officer of a business domiciled in the city, he/she may remain
256 active until the mayor and council appoint his/her replacement.

257 **Sec. 2-140. - Terms.**

258 (a) Each committee member shall serve a specified term of not more than four years.
259 Consecutive terms are permissible. Each committee member, but the mayor and
260 councilmembers serving thereon, shall have staggered terms of an amount to be specified by
261 the mayor.

262 (b) The mayor and councilmembers on each committee shall serve on that committee so long as
263 they remain elected to office. A former councilmember or former mayor may serve on a
264 committee, but such person shall not take the place of the elected member.

265 (c) Members filling vacancies shall serve the remainder of the term to which they were
266 appointed. A consecutive appointment is permissible. Members whose terms expire shall
267 continue to serve until a replacement is appointed or a consecutive appointment is made.

268 (d) Any member may be removed with or without cause by the mayor.

269 **Sec. 2-141. - Compensation.**

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270 Committee members may serve without compensation. Reasonable expenses for travel may
271 be reimbursed and committee members may be compensated pursuant to a policy to be
272 established by the city manager and approved by the council.

273 **Sec. 2-142. - Quorum.**

274 A majority of actual committee members establishes a quorum. Any action taken requires a
275 majority of affirmative votes of the quorum present.

276 **Sec. 2-143. - Procedure.**

277 (a) Each of the committees shall adopt its rules of procedure, which shall be substantially
278 similar to the rules of procedure of the city council, and determine its time of meetings. The
279 date and time of each meeting as well as agenda items to be considered shall be publicized
280 in the same manner as meetings of the mayor and council.

281 (b) All meetings at which official action is taken shall be open to the public and all records
282 maintained by the committee shall be public records unless expressly exempted by a
283 provision of the state's Open Records Act. The committees shall keep minutes of their
284 formal proceedings, showing the vote of each member upon each question, and records of
285 their examinations and other official actions, all of which shall be filed in the office of the
286 city clerk. Copies of the minutes shall be sent to the mayor and each member of the city
287 council. The minutes of the meetings shall be a public record. This section shall not be
288 construed as prohibiting closed sessions when permitted by the state open meetings and
289 open records acts.

290 (c) Expenditures of the committees, if any, shall be within the amounts appropriated for the
291 purpose intended by the mayor and council during the annual budgeting process.

292 **Sec. 2-144. - Training.**

293 The mayor may establish a mandatory training program for committee members.

294 **Secs. 2-145—2-171. - Reserved.**

295

296 **ARTICLE VI. - FINANCE**

297 **DIVISION 1. - GENERALLY**

298 **Sec. 2-172. - Fiscal year.**

299 The fiscal year of the city shall be set by ordinance of the city council.

300 **Sec. 2-173. - Finance director.**

301 (a) The functions of the city accountant and city treasurer shall be performed by the finance
302 director or his/her designee within the finance department under the direction of the finance
303 director.

304 (b) The finance director shall perform at least the following duties:

305 (1) Managing, planning, directing, and maintaining the city's financial operations, including
306 serving as chair of the city finance department, if such a department is established;

307 (2) Directing and supervising the work of personnel involved in performing the accounting,
308 utility billing, property tax, payroll, and purchasing functions for the city;

309 (3) Providing technical leadership in budgeting, overseeing, and directing investment
310 opportunities and debt administration, as well as ensuring proper record retention
311 policies are strictly followed; and

312 (4) The council may require the finance director to perform other duties.

313 (c) The city may contract with a third party to serve as finance director.

314 **Sec. 2-174. - City tax collector.**

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(a) The mayor shall nominate a city tax collector, subject to ratification by the council. The city tax collector also may serve as the city treasurer, city accountant, and city finance director.

(b) The city may contract with a third party, including the tax commissioner of DeKalb County, Georgia, to serve as city tax collector.

(c) The city tax collector shall perform at least the following duties. The mayor and council may require the city tax collector to perform other duties:

(1) Managing, planning, and directing the collection of all city taxes.

(2) Notifying delinquent taxpayers of their status in accordance with state law.

Sec. 2-175. - Audits.

(a) The city council shall appoint an internal auditor to audit the financial records and expenditures of city funds and to report the results of such audits in writing to the city council at times and intervals set by the city council, but no less than quarterly. Such audit reports shall, at a minimum, identify all city expenditures and other financial matters that the internal auditor either determines are not in compliance with or cannot conclusively be determined to be in compliance with the provisions of the Charter, the applicable city budget, applicable ordinances, resolutions, or other actions duly adopted or approved by the city council.

(b) The city council shall appoint an auditor to perform an annual independent audit of all city accounts, funds, and financial transactions by a certified public accountant selected by the city council. The audit shall be conducted according to generally accepted accounting principles. Any audit of any funds by the state or federal government may be accepted as satisfying the requirements of this Charter. Copies of all audit reports shall be available at

printing cost to the public. As a minimum, all audits and budgets of the city shall satisfy the requirements of O.C.G.A. tit. 36, ch. 81, relating to local government audits and budgets.

Sec. 2-176. - Interest assessed under Code.

Unless specifically provided otherwise, all interest assessed under the provisions of this Code shall be at an annual rate of 12 percent per annum. Where penalties are specified, such penalties shall be assessed, in addition to specified interest charges, at the rate of ten percent of the amount due for failure to file, negligence or disregard of rules or regulations; an additional penalty of 25 percent of the amount due shall be assessed for any fraud or intent to evade.

Sec. 2-177. - Delegation of authority to set fees charged by the city.

(a) The city manager or his/her designee shall have the authority to set such fees for permits, licenses, or other permissions required of the city.

(b) Any change to any license fee, permit fee, or other fee charged by the city and set by the city manager shall not take effect unless and until the process required by section 2-178 shall be completed.

(c) The city council shall retain the authority to rescind any fee set by the city manager or his/her designee upon passage of a resolution of the council rescinding such fee or setting a different fee amount.

(d) The city manager is directed to take into account the costs associated with the application process and enforcement of the licensing or permitting scheme in determining an appropriate fee to be charged.

Sec. 2-178. - Administrative process for altering or setting fees charged by the city.

(a) The city manager or his/her designee shall:

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(1) Post any proposed change to the city fee schedule at city hall and on the city's website at least 45 days before the change is to take effect, including a calculation of the effective date of such change.

(2) Notify the mayor and city council by paper or electronic communication and by announcement at the next regular meeting of the city council of the proposed change.

(3) All communications or postings of proposed changes to the city fee schedule shall include a justification for the needed change, which may include an analysis of the costs associated with the application, permit or license, costs of enforcement and investigation incurred by the application, permit or license, and such other facts or circumstances deemed relevant to the need for the change to the fee schedule.

(b) Persons impacted by the proposed change shall have 30 days from the posted communication to make objections known to the city manager, in writing or by electronic communication, who shall then forward such objections to the city attorney and the mayor and city council. If oral objections are communicated, the objector shall be informed of the opportunity to provide feedback in writing.

Sec. 2-179. - Effective date of changes to city fee schedule.

(a) Any proposed change to the city fee schedule initiated by the city manager shall take effect no sooner than 45 days from the date first posted or first communicated to the mayor and council, whichever is later.

(b) No change to the city fee schedule shall be applied retroactively to any application, permit, license or other city fee.

Secs. 2-180—2-259. - Reserved.

DIVISION 2. - PURCHASING

Sec. 2-260. - Purchasing policy.

The purchasing policy, as amended from time to time and approved by resolution of the city council, is adopted by reference as if set out at length in this Code.

Secs. 2-261—2-289. - Reserved.

ARTICLE VII. - UNCLAIMED PROPERTY

Sec. 2-290. - 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:

Auction means a public sale where property or goods are sold to the highest bidder either in person or through an internet auction website such as propertyroom.com.

Public sale means an auction of property or goods conducted in accordance with the requirements of O.C.G.A. § 17-5-54 and this article.

Sec. 2-291. - Sale at auction and state law requirements.

(a) The city may sell at auction any and all court-awarded, unclaimed articles of personal property that come into its possession and have been abandoned, seized, or been the subject of a crime, after an effort has been made to ascertain the true owner thereof without success.

Sale of such personal property shall not occur until the superior court of the county enters an order authorizing sale in accordance with the requirements of O.C.G.A. § 17-5-54.

(b) The city shall comply with applicable state law, including, but not limited to, O.C.G.A. §§ 17-5-54, 17-5-55 and 17-5-56 in selling personal property at auction.

Sec. 2-292. - Catalog record.

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It will be the duty of the city to maintain a separate and complete catalog record of all personal property that comes into its possession. Such personal property will be identified in detail by its usual name, make and model, and the manufacturer's name and serial number, if any. If there is no identifying name or number, it will be fully described in this catalog record as to its physical properties and appearance.

Sec. 2-293. - Effort to locate owner prior to sale.

The city will make an effort to find the true owner of any article of personal property coming into its possession. If the owner can be found, the city will release the personal property to the owner. If the true owner of the article is not found, the city will proceed to sell, destroy or retain the personal property in the manner provided in state law and in this article.

Sec. 2-294. - When sales conducted; terms of sale.

All personal property in the custody of the police department, including personal property used as evidence in a criminal trial, which is unclaimed after a period of 90 days following its seizure, or following the final verdict and judgment in the case of personal property used as evidence, and which is no longer needed in a criminal investigation or for evidentiary purposes in accordance with O.C.G.A. § 17-5-55 or 17-5-56, shall be subject to disposition by the police department. When articles of personal property in the possession of the police department have been authorized for sale by entry of an order of the county superior court, as required by state law, the city will hold a public sale of all court-awarded, unclaimed articles of personal property. All articles will be sold to the highest bidder on an "as-is" basis, and the city makes no warranties of any nature, either expressed or implied, as to merchantable title, quality or performance.

Sec. 2-295. - Advertisement of sale.

(a) Notice of the public sale referred to in this article will be advertised in the legal organ of the city once a week for four consecutive weeks.

(b) The notice shall specifically describe each item and advise possible owners of items of the method of contacting the police department, provided, however, that miscellaneous items having an estimated fair market value of \$75.00 or less may be advertised or sold, or both, in lots. Such notice shall also stipulate a date, time, and place said items will be placed for public sale if not claimed. Such notice shall stipulate whether said items or groups of items are to be sold in blocks, by lot numbers, by entire list of items, or separately. The notice will be of sufficient size and type to be easily read and understood by the general public and will state definitely the time and place of the sale, that it will be open to the public and that all sales are to be made to the highest bidder. This notice may refer to the sale as an "auction of seized, unclaimed or awarded personal property," or by any other appropriate name and will state that only court-awarded, unclaimed personal property which has come into the possession of the city is being sold; that the city makes no warranties, either expressed or implied, as to merchantable title, quality or performance; and that all articles are sold "as-is." The police chief or his/her designee may also advertise notice of the sale in other newspapers, on the city's website and/or on other internet advertising sites.

(c) Items not claimed by the owners shall be sold at the public sale, which shall be conducted commencing not less than seven or more than 15 days, after the final notice has been run in the legal organ. The sale shall be to the highest bidder.

Sec. 2-296. - Conduct of sale.

The city may conduct a public sale using an auctioneer or may utilize an online auction service so long as both methods of sale comply with the applicable requirements of state law and

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this article. The city will appoint an individual or entity, which may include an online auction service, to conduct the sale authorized by this article under the guidance of an employee of the city, and more than one person may act as the agent who conducts the sale of court-awarded, unclaimed personal property. The individual or entity acting for the city will be the sole arbiter in the case of a disputed sale and will not make a sale until all bidding on the article offered has ceased. However, there will not be any required number of bids before a sale is made.

Sec. 2-297. - Announcement of terms to be made during sale.

In the event there is an in-person auction, it will be the duty of the individual or entity holding the in-person auction authorized by this article to make or include a public announcement before opening the sale, that the city does not warrant title to any article, nor is there any other warranty, either expressed or implied, as to any article sold and that all sales are final and all articles are sold "as-is." It will be the duty of the individual or entity in charge of the in-person auction to make or include this announcement at intervals during the progress of the sale. When the city uses an internet auction service to sell unclaimed personal property, there will be a statement online that the items are sold "as-is."

Sec. 2-298. - Disposition of sale proceeds.

It will be the duty of the police department to make a true accounting to the city finance department of all the personal property sold and money collected from the sales conducted, as provided in this article. Such money will be deposited in the general fund and used as prescribed by law.

Sec. 2-299. - Disposition of unsold personal property.

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All unclaimed personal property that the city has offered for public sale but is not sold can be donated to charity or destroyed, depending on the condition of said personal property, at the sole discretion of the police chief.

Secs. 2-300—2-316. - Reserved.

ARTICLE VIII. - CITY-OWNED PROPERTY

Sec. 2-317. - Disposition of city-owned strips of land incapable of being used independently.

(a) As set forth in O.C.G.A. § 36-37-6(g), the city may sell and convey parcels of small or narrow strips of land, so shaped or so small as to be incapable of being used independently as zoned or under applicable subdivision or other development ordinances or land use plans, or as streets, whether owned in fee or used by easement, to abutting property owners where such sales and conveyances facilitate the enjoyment of the highest and best use of the abutting owner's property.

(b) The sale of such property to abutting property owners authorized by this section is not required to be submitted to the process of auction or the solicitation of sealed bids so long as each abutting property owner shall be notified of the availability of the property and shall have the opportunity to purchase said property under such terms or conditions as set out in this Code.

Secs. 2-318—2-374. - Reserved.

490

491 **ARTICLE X. - CODE OF ETHICS**

492 **Sec. 2-375. - Declaration of policy.**

493 (a) It is the policy of the City that the proper operation of democratic government requires that
494 public officials be independent, impartial and responsible to the people; that governmental
495 decisions and policy be made in proper channels of the governmental structure; that public
496 office not be used for personal gain; and that the public have confidence in the integrity of
497 its government. In recognition of these goals, a code of ethics for all city officials is adopted.

498 (b) This code of ethics has the following purposes:

499 (1) To encourage high ethical standards in official conduct by city officials;

500 (2) To establish guidelines for ethical standards of conduct for all such officials by setting
501 forth those acts or actions that are incompatible with the best interest of the city;

502 (3) To require disclosure by such officials of private financial or other interest in manners
503 affecting the city; and

504 (4) To serve as a basis for disciplining those who refuse to abide by its terms.

505 **Sec. 2-376. - Scope of persons covered.**

506 The provisions of this code of ethics shall be applicable to all members of the city council,
507 the planning and zoning commission, the board of zoning appeals, all advisory commissions, and
508 committee members.

509 **Sec. 2-377. - Definitions.**

510 As used in this Article, the following terms shall have the following meanings, unless the
511 context clearly indicates that a different meaning is intended:

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- 512 (a) *Censure* means the act of condemning as wrong. A censure shall be effectuated by entry in
513 the minutes of a city council meeting.
- 514 (b) *City official and/or official*, unless otherwise expressly defined, means the mayor, the
515 members of the city council, candidates for the offices of the mayor and city council after
516 legal notice of candidacy and qualification as such candidate, the municipal court judges
517 (including substitute judges), the city manager, any assistant city managers, the city clerk,
518 any deputy city clerks, whether such person is salaried, hired or elected, and all other
519 persons holding positions designated by the city charter, as it may be amended from time to
520 time. City officials, unless otherwise expressly defined, includes individuals appointed by
521 the mayor and council to all city commissions, authorities, committees, boards and task
522 forces, and all other city committee and/or body members, unless specifically exempted
523 from this Article by law and/or the city council.
- 524 (c) *Complainant* means a person or entity who submits to the city clerk an ethics complaint
525 alleging a violation of this Article.
- 526 (d) *Decision* means any article, resolution, contract, franchise, formal action or other matter
527 voted on by the city council or other city board or commission, as well as the discussions or
528 deliberations, of the council, board or commission which can or may lead to a vote or formal
529 action by such body.
- 530 (e) *Discretionary authority* means the power to exercise any judgment in a decision or action.
- 531 (f) *Entity* means a sole proprietorship, partnership, limited partnership, firm, corporation,
532 professional corporation, holding company, joint stock company, receivership, trust or any
533 other entity recognized by law through which business may be conducted.

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(g) *Immediate family* means the legal and/or biological parent, sibling, child, spouse, or any corresponding in-law of any city official.

(h) *Interest*:

(1) *Incidental interest* means an interest in a person, entity or property which is not a substantial interest.

(2) *Remote interest* means an interest of a person or entity, including a city official, who would be affected in the same way as the general public. The interest of a council member in the property tax rate, general city fees, city utility charges, or a comprehensive zoning article or similar decisions is incidental to the extent that the councilmember would be affected in common with the general public.

(3) *Substantial interest* means a known interest, either directly or through a member of the Immediate Family, in another person or entity:

a. The interest is ownership of five (5) percent or more of the voting stock, shares or equity of an entity or ownership of five thousand dollars (\$5,000.00) or more of the equity or market value of the entity; or

b. Funds received by the person from the other person or entity either during the previous twelve (12) months equaled or exceeded five thousand dollars (\$5,000.00) in salary, bonuses, commissions or professional fees, or ten (10) percent of the recipient's gross income during that period, whichever is less; or

c. The person serves as a corporate officer or member of the board of directors or other governing board of the for-profit entity other than a corporate entity owned or created by the city council; or

d. The person is a creditor, debtor or guarantor of the other person or entity in an amount of five thousand dollars (\$5,000.00) or more.

(4) *Substantial interest in real property* means an equitable or legal ownership interest in real property with a fair market value of five thousand dollars (\$5,000.00) or more.

(i) *Ethics complaint* means a written document alleging a violation of this Article by a city official. All ethics complaints filed with the city shall contain the following:

(1) A brief statement specifically identifying the name and title of the city official against whom the complaint is filed. An ethics complaint may not allege violations and/or seek action against more than one city official;

(2) A numbered list separately identifying each improper act which the city official is alleged to have committed, including 1) the date of any such alleged offense(s); 2) the specific section(s) of this Article that each act is alleged to be in violation of; and 3) the factual basis for each alleged violation;

(3) A sworn and notarized statement by the complainant attesting that all information in the complaint is true to the complainant's information and knowledge;

(4) Email address, phone number and mailing address where the complainant may be contacted; and

(5) The complainant's residential address within the city limits.

(j) *Reprimand* means an official reproof, reprehension, or rebuke of a wrong. A reprimand shall be effectuated by resolution of the mayor and council.

(k) *Respondent* means a city official charged with a violation of this Article.

Sec. 2-378. - Standards of conduct.

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(a) No councilmember or member of any board or commission shall use such position to secure special privileges or exemptions for such person or others, or to secure confidential information for any purpose other than official responsibilities.

(b) No councilmember or member of any board or commission, in any matter before the council, board or commission in which he/she has a substantial interest, shall fail to disclose for the common good for the record such interest prior to any discussion or vote.

(c) No councilmember or member of any board or commission shall act as an agent or attorney for another in any matter before the city council or any board or commission.

(d) No councilmember or member of a board or commission shall directly or indirectly receive or agree to receive any compensation, gift, reward or gratuity in any matter or proceeding connected with, or related to, the duties of his/her office except as may be provided by law.

(e) No councilmember or member of any board or commission shall enter into any contract with the city except as specifically authorized by state statutes. Any councilmember or member of a board or commission who has a proprietary interest in an agency doing business with the city shall make known that interest in writing to the city council and the city clerk.

(f) All public funds shall be used for the general welfare of the people and not for personal economic gain.

(g) Public property shall be disposed of in accordance with Georgia law.

(h) No city official shall solicit or accept other employment to be performed or compensation to be received while still a city official or employee if the employment or compensation could reasonably be expected to impair in judgment or performance of that official's or employee's city duties.

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(i) If a city official accepts or is soliciting a promise of future employment from any person or entity who has a substantial interest in a person, entity or property which would be affected by any decision upon which the official might reasonably be expected to act, investigate, advise, or make a recommendation, the official shall disclose the fact to the council, board or commission on which he serves, or to his/her supervisor, and shall take no further action or matters regarding the potential future employer.

(j) No city official shall use city facilities, personnel, equipment or supplies for private purposes, except to the extent such are lawfully available to the public.

(k) No city official shall grant or make available to any person any consideration, treatment, advantage or favor beyond that which it is the general practice to grant or make available to the public at large.

(l) No city official shall directly or indirectly solicit from a person or entity a gift, loan, favor, promise, or thing of value for him/herself or another person or entity if the city official is, at the time of such solicitation, involved in any official act or action which would result in a benefit to the person or entity from whom the gift, loan, favor, promise or thing of value is solicited. However, the above prohibition shall not apply in the case of:

(1) Occasional unsolicited non-monetary gift(s) and/or trinket(s) with a value of less than one hundred dollars (\$100.00), such as a calendar, memento, pen, and/or admission to or consumption of food and/or beverages at a function, social setting or event;

(2) An award publicly presented in recognition of public service;

(3) Any transaction authorized by and performed in accordance with O.C.G.A. § 16-10-6 as now or hereafter amended;

(4) A commercially reasonable loan or other financial transaction made in the ordinary course of business by an institution or individual authorized by the laws of Georgia to engage in the making of such loan or financial transaction;

(5) Campaign contributions made and reported in accordance with Georgia laws;

(6) Items listed under O.C.G.A. § 16-10-2 that are specifically itemized as "a thing of value shall not include" as now or hereafter amended; or

(7) Food, beverage or expenses afforded city officials, members of their families, or others that are associated with normal and customary business or social functions or activities.

Sec. 2-379. - Prohibition of conflict of interest.

A city official may not participate in a vote or decision on a matter affecting a person in whom the official has a Substantial Interest or a matter affecting any property in which the official has a Substantial Interest in real property; in addition, a city official who serves as a corporate officer or member of a board of directors of a nonprofit entity may not participate in a vote or decision regarding funding of the entity by or through the city. Where the interest of a city official in the subject matter or a vote or decision is remote or incidental, the city official may participate in the vote or decision and need not disclose the interest.

Sec. 2-380. - Exemptions.

The provisions of this Article shall not be construed to require the filing of any information relating to any person's connection with, or interest in, any professional society or any charitable, religious, social, fraternal, educational, recreational, public service, civil or political organization not conducted as a business enterprise or governmental agency, and which is not engaged in the ownership or conduct of a business enterprise or governmental agency.

Sec. 2-381. - Severability.

The provisions of this Article are severable. If any provision of this Article or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this Article which can be given effect without the invalid provisions or application.

Sec. 2-382. - Penalty.

(a) Any respondent found to have violated the provisions of this Article shall be subject to:

(1) Public reprimand and/or censure by the mayor and council;

(2) A fine greater than one hundred dollars (\$100.00) but less than five hundred dollars (\$500.00); and

(3) Request for resignation by the mayor and council.

Sec. 2-383. - Filing of complaints.

(a) Only residents of the city may file a complaint under this Article. A complaint filed by a non-resident shall not be acted upon.

(b) All ethics complaints shall be filed with the city clerk. The city clerk, or his/her designee, shall email a copy of any such complaint to the city council, the city manager and the respondent(s) named in the complaint within five (5) calendar days of such filing.

(c) To discourage the filing of complaints under this Article solely for political purposes, complaints brought under this Article against a municipal election candidate filed sixty (60) calendar days prior to the opening date of qualifying for municipal office through the date of certification of the election results will not be acted upon until the election results for that office have been certified. Deadlines under this Article shall be tolled during such period. Action shall thereafter only be taken upon the ethics complaint if the candidate against whom the complaint is filed is elected to that term of office.

Sec. 2-384. - Service of documents by respondent and complainant.

(a) Within three (3) calendar days of the filing of an ethics complaint with the city clerk, the complainant shall serve by mail the individual members of the city council, the city manager and the respondent named in the complaint with a copy of the complaint at their official city addresses.

(b) The respondent may file a response to the ethics complaint with the city clerk, but is not required to do so.

(c) The complainant and the respondent shall serve each other, the city manager and the individual members of the city council with copies of all documents filed by them with the city clerk relating to the ethics complaint, by certified mail, return receipt requested or statutory overnight delivery, within three (3) calendar days of the date that any such document is filed.

(d) The complainant and the respondent shall file with the city clerk proof of mailing of all mailings required under this Article within three (3) business days of such document being mailed. Such proof of service shall contain a copied and/or printed form provided by the postal facility which evidences the recipient, tracking number and date of such mailing. The city clerk shall verify that the correct address was indicated on the envelope.

Sec. 2-385. - Action upon complaints.

The mayor and council shall hear and render decisions on all ethics complaints filed with the city. A quorum for purposes of taking action upon an ethics complaint is the mayor and two councilmembers. If the mayor is a respondent to the ethics complaint, three councilmembers shall constitute a quorum. If less than three (3) councilmembers are available to constitute a quorum, due to the provisions in section 2-388 and/or 2-389 of this Article, a mediator, certified

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by the Georgia Commission on Dispute Resolution, at the mayor and council's discretion, shall be substituted for the mayor and/or any councilmembers for purposes of acquiring a three (3) person quorum. Ethics complaints shall be reviewed as follows:

(a) Preliminary review of ethics complaints:

(1) The city clerk shall schedule a meeting to occur within sixty (60) calendar days of an ethics complaint's filing for the mayor and council to vote upon whether the complaint will be dismissed or proceed to an evidentiary hearing, and shall mail notice of such meeting to the complainant and the respondent at least thirty (30) days prior to such meeting.

(2) The mayor and council may dismiss any ethics complaints that they determine is unjustified, frivolous or patently unfounded; substantially noncompliant with the requirements of this Article; or fails to state facts sufficient to invoke the disciplinary jurisdiction of the city council. The city clerk shall mail to the complainant and respondent the outcome of the preliminary review within five (5) calendar days of such meeting.

(3) If the mayor and council determine that the ethics complaint should proceed to an evidentiary hearing, the city clerk shall schedule such hearing to occur within thirty (30) calendar days of the mayor and council's vote at the preliminary review.

(b) Evidentiary hearing on ethics complaints:

(1) Should an ethics complaint proceed to an evidentiary hearing, the complainant and the respondent shall have the right to be represented by counsel; to hear, present and examine the evidence and witnesses; and to oppose or try to mitigate the allegations. The

mayor and council may establish time limits, and other protocol, for the presentation of evidence and argument.

(2) The mayor and council shall render a final decision on the ethics complaint at an open meeting within thirty (30) calendar days of the conclusion of the hearing.

(3) The city clerk shall mail to the complainant and the respondent the mayor and council's final decision on the ethics complaint within five (5) calendar days of such decision.

(c) The mayor and council may vote to continue and/or postpone a scheduled meeting and/or hearing on an ethics complaint to a later selected date, as necessary. The grounds and date for the reset shall be stated in the official minutes for such meeting. The city clerk shall email to the complainant and the respondent notice of the reset meeting date within five (5) calendar days of such vote.

Sec. 2-386. - Charge of noncompliance.

(a) After the filing of an ethics complaint, but at least five (5) days prior to the preliminary hearing, or evidentiary hearing if one is set, the respondent and/or complainant may file a charge of noncompliance with the city clerk, alleging that the complainant, respondent and/or any city employee/official has failed to meet a required deadline under this Article. This paragraph is strictly limited to grievances with respect to procedural deadlines set forth under this Article, and may not be used to seek review of alleged ethics violations. Additionally, a separate charge must be filed against each city employee and/or official who is alleged to have violated a procedural deadline set forth under this Article. The charge must identify the filer of the charge, the person against whom the charge is made, and the alleged missed deadline.

(b) The city clerk, or his/her designee, shall email a copy of such charge to the mayor and council, city manager, respondent, complainant and the employee and/or official against whom the charge is made, within five (5) calendar days of such filing. The city clerk shall not be required to email a copy of the charge to the respondent and/or complainant who filed the charge. The city manager shall cause for corrective action to be taken for any missed deadline under this Article by a city employee.

(c) The filer of the charge may also raise the charge of noncompliance as a threshold issue at the next scheduled public meeting on the ethics complaint. The mayor and council shall thereafter vote to determine whether the alleged deadline was missed. The mayor and council's finding of a material failure by the complainant to comply with this Article at any time may result in the ethics complaint's dismissal. The council's finding of a missed deadline by a city employee and/or official, without a finding of contributing negligence by the filer of the charge, shall give the filer of the charge the option to have the proceeding continued to the next available council meeting in lieu of being heard further that day.

Sec. 2-387. - Bar against subsequent complaints.

(a) The dismissal of an ethics complaint by the mayor and council on procedural grounds shall bar the complainant from filing any subsequent complaint against the same respondent for a period of three (3) months from the date of such dismissal.

(b) Should the mayor and council deny an ethics complaint on jurisdictional grounds, and/or determine that the evidence does not establish that the respondent has committed a violation of any provision of this Article, the complainant shall be barred from filing any subsequent ethics complaint against the respondent arising from the same facts and circumstances as the adjudicated complaint.

Sec. 2-388. - Participation by accused members.

(a) If the mayor or city councilmember is charged with a violation of this Article, he/she shall not:

(1) Participate in, preside over, remain in his/her place on the dais, or have any other direct or indirect involvement with the consideration or deliberation by the mayor and council of the ethics complaint; or

(2) Substantively discuss the pending ethics complaint, including any of the facts, circumstances, or allegations supporting it with the mayor, any other councilmember, or any official or employee of the city, except at the meetings and/or hearings on the complaint. This provision shall not prevent the mayor or any city councilmember from communicating with city staff and officials with respect to facilitating and receiving required filings and notices under this Article.

Sec. 2-389. - Participation by complaining official.

If the mayor or any city councilmember files, initiates, and/or encourages the filing of an ethics complaint against a respondent, he/she shall not actively preside over the consideration of the complaint before the city council.

Sec. 2-390. - Statute of limitations.

(a) No ethics complaint shall be permitted under this Article unless such complaint is filed within six (6) months of the commission of the act complained of, provided, however, the limitation shall be tolled during the period that the alleged offense is unknown to the complainant. Under no circumstances, however, shall any period be tolled where the complainant knew and/or should have known about the alleged violation and/or where the

facts surrounding the offense were published by a news outlet, discussed at a public meeting and/or otherwise known to the general public.

(b) No proceeding under this Article shall be instituted and/or prosecuted after the expiration of the respondent's term of office during which the offense is alleged, if not re-elected immediately following such term, and/or after the resignation, death, vacancy, disqualification and/or withdrawal of the respondent from office.

Sec. 2-391. - Right to appeal.

An appeal of any adverse decision of the mayor and council rendered under this Article shall be commenced by filing a petition for a writ of certiorari in the Superior Court of DeKalb County as provided by law.

Secs. 2-392 – 3-99. - Reserved.”

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

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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 _____, 2017.

Approved:

Jason Lary, Sr., Mayor

As to form:

Thompson Kurrie, Jr., City Attorney

Attest:

Brenda James, City Clerk



CITY COUNCIL AGENDA ITEM

SUBJECT: Ordinance of the City of Stonecrest Adopting Chapter 24- Taxation, Article 1 to Adopt Insurance License Fees and Premium Tax Regulations

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

Date Submitted: 08/31/2017 Work Session: 09/13/2017 Council Meeting: 09/18/2017

SUBMITTED BY: Attorney Destiny Washington

PURPOSE:

HISTORY:

FACTS AND ISSUES:

OPTIONS:

RECOMMENDED ACTION: First Read Only

**ORDINANCE OF THE CITY OF STONECREST, GEORGIA, ADOPTING CHAPTER
24, TAXATION, ARTICLE I, TO ADOPT INSURANCE LICENSE FEES AND
PREMIUM TAX REGULATIONS.**

WHEREAS, the City of Stonecrest, Georgia Mayor and City Council are authorized by the City Charter to adopt business regulations and levy certain business taxes as authorized by the laws of the State of Georgia; and

WHEREAS, O.C.G.A. §§ 33-8-8.1 and 33-8-8.2 authorize the City to levy a tax on gross premiums collected by insurance companies, including life insurance companies, issuing policies within the boundaries of the City; and

WHEREAS, Pursuant to O.C.G.A. § 33-8-8, the City is authorized to levy a licensing fee upon insurance companies for the privilege of engaging in the business of insurance within the City.

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

Section 1: The Mayor and City Council of the City of Stonecrest, Georgia, hereby adopt an ordinance designated as "Insurance License Fees and Premium Tax Ordinance" as follows:

CHAPTER 24. TAXATION

ARTICLE I. IN GENERAL

Sec. 24-1. Definitions.

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

Gross direct premiums , pursuant to O.C.G.A. § 33-8-4, means all foreign, alien and domestic insurance companies doing business in the state shall pay a tax of 2.25 percent

upon the gross direct premiums received by them on and after July 1, 1955. The tax shall be levied upon persons, property, or risks in the state, from January 1 to December 31, both inclusive, of each year without regard to business ceded to or assumed from other companies. The tax shall be imposed upon gross premiums received from direct writings without any deductions allowed for premium abatements of any kind or character or for reinsurance or for cash surrender values paid, or for losses or expenses of any kind; provided, however, deductions shall be allowed for premiums returned on the change of rate or canceled policies; provided, further, that deductions may be permitted for return premiums or assessments, including all policy dividends, refunds or other similar returns paid or credited to policyholders and not reapplied as premium for additional or extended life insurance. The term "gross direct premiums" does not mean and include annuity considerations. Annuity considerations received by nonprofit corporations licensed to do business in the state issuing annuities to fund retirement benefits for teachers and staff personnel of private secondary schools, colleges and universities shall not be considered gross direct premiums.

Insurer means a company which is authorized to transact business in any classes of insurance designated in O.C.G.A. § 33-3-5.

Sec. 24-2. License fees.

There is hereby levied an annual license fee upon each insurer doing business within the City in the amount of \$150.00. For each separate business location within the city, which is operating on behalf of such insurers within the city, there is hereby levied an additional license fee in the amount \$150.00.

Sec. 24-3. Additional license fees.

For each separate business location, not otherwise subject to a license fee hereunder, operated and maintained by a business organization which is engaged in the business of lending money or transacting sales involving term financing and in connection with such loans or sales offers, solicits or takes applications for insurance through a licensed agent of an insurer for insurance, said insurer shall pay an additional license fee in the amount of \$52.50, being 35 percent of the licensing fee levied in Section 2 per location for the year 2018, and each year thereafter.

Sec. 24-4. Gross premiums tax—Life, accident and sickness insurers.

(a) There is hereby levied an annual tax based solely upon gross direct premiums upon each insurer writing life, accident and sickness insurance within the state in an amount equal to one percent of the gross direct premiums received during the preceding calendar year in accordance with O.C.G.A. § 33-8-8.1.

(b) The premium tax levied by this section is in addition to the license fees imposed by Section 2 of this Ordinance.

Sec. 24-5. Same—All other insurers.

(a) There is hereby levied an annual tax based solely upon gross direct premiums upon each insurer, other than an insurer transacting business in the class of insurance designated in O.C.G.A. § 33-3-5(1), doing business within the state in an amount equal to 2.5 percent of the gross direct premium received during the preceding calendar year in accordance with O.C.G.A. § 33-8-8.2.

(b) The premium tax levied by this section is in addition to the license fees imposed by Section 2 of this Ordinance.

Sec. 24-6. Fees due on January 1.

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License fees imposed by Sections 2 and 3 of this Ordinance shall be effective immediately upon passage of this Ordinance and be due and payable on January 1, 2018 and on the first day of each subsequent year.

Sec. 24-7. – 24-10. Reserved.

Section 2: The Mayor and City Council hereby direct and authorize the City Manager, City Clerk and/or the City Attorney to transmit a certified copy of this Ordinance to the State of Georgia Insurance Commissioner, along with any other required documents to effectuate the collection of these license fees and taxes, within 45 days after the effective date of this Ordinance, but in no event later than December 31, 2017.

Section 3:

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.

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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 _____, 2017.

Approved:

Jason Lary, Sr., Mayor

As to form:

Thompson Kurrie, Jr., City Attorney

Attest:

Brenda James, City Clerk



CITY COUNCIL AGENDA ITEM

SUBJECT: An Ordinance Adopting a Fee for Annexation Applications for the City of Stonecrest, Georgia

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

Date Submitted: 08/31/2017 Work Session: 09/13/2017 Council Meeting: 09/18/2017

SUBMITTED BY: Attorney Emily Macheski-Preston

PURPOSE:

HISTORY:

FACTS AND ISSUES:

OPTIONS:

RECOMMENDED ACTION: First Read Only

STATE OF GEORGIA
DEKALB COUNTY
CITY OF STONECREST

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AN ORDINANCE ADOPTING A FEE FOR ANNEXATION APPLICATIONS

WHEREAS: Section 1.03(a) of the Charter of the City of Stonecrest provides that the City has all powers under the laws of this state; and

WHEREAS: Pursuant to O.C.G.A. § 36-36-1, the City has the authority to annex property into the incorporated boundaries of the City of Stonecrest; and

WHEREAS: It is necessary that the city impose certain fees to cover expenses associated with the processing of annexation applications.

SECTION 1:

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Council of the City of Stonecrest, Georgia, the Fee for Annexation Applications shall be follows:

- \$350 - Application Fee for Annexation
- \$275 - Application Fee for Annexation for Tax Parcels Partially Located within the City of Stonecrest as Result of the Boundaries Contained in the Charter of the City of Stonecrest

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 ____th day of _____, 2017.

Approved:

Jason Lary, Sr., Mayor

Thompson Kurrie, Jr., City Attorney

Attest:

Brenda James, Interim City Clerk



CITY COUNCIL AGENDA ITEM

SUBJECT: An Ordinance to amend the schedule of Fees for Business, Alcohol and other Licenses and Permits in the City of Stonecrest, Georgia

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

Date Submitted: 08/31/2017 **Work Session:** 09/13/2017 **Council Meeting:** 09/18/2017

SUBMITTED BY: City Attorney Office

PURPOSE:

HISTORY:

FACTS AND ISSUES:

OPTIONS:

RECOMMENDED ACTION: First Read Only

**AN ORDINANCE TO AMEND THE SCHEDULE OF FEES FOR BUSINESS,
ALCOHOL, AND OTHER LICENSES AND PERMITS IN THE CITY OF
STONECREST, GEORGIA**

WHEREAS: Section 1.03(b)(3) of the Charter of the City of Stonecrest provides that the City may regulate and license the erection and construction of buildings and all other structures; and

WHEREAS: Section 1.03(b)(4) of the Charter of the City of Stonecrest provides that the City may levy and provide for the collection of regulatory fees for business regulation; and

WHEREAS: Pursuant to Chapter 15 of the City of Stonecrest Code of Ordinances, the City Council may impose regulatory fees upon businesses that the city deems necessary to regulate; and

WHEREAS: It is the imperative that the City Council update its Schedule of Fees to reflect changes made to the City of Stonecrest Code of Ordinances.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and City Council for the City of Stonecrest that the recommended Schedule of Fees be amended to read as follows:

SECTION I:

Business Licenses and Permits section is amended to add the following fees which read as follows:

<u>Permit/License Type</u>	<u>Fee</u>
<u>Carnival Permit</u>	\$ 50.00
<u>Escort or Dating Services Permit</u>	\$ 300.00
<u>Pawn Shop Permit</u>	\$ 200.00
<u>Precious Metal Dealer Annual Permit</u>	\$ 300.00
<u>Precious Metal Dealers Employee/Owner Permit</u>	\$ 50.00
<u>Sexually Oriented Business Employee License</u>	\$ 200.00

FINGERPRINTING - \$5.00

BUSINESS LICENSES BACKGROUND INVESTIGATIONS (per applicant)

<u>Escort of Dating Services License</u>	<u>\$ 1,000.00</u>
--	--------------------

<u>Going-Out-Of-Business Sales License</u>	\$ 35.00
<u>Massage Therapy/Establishment License</u>	\$ 50.00
<u>Non-Consensual Towing License</u>	\$ 50.00
<u>Pawn Shop License</u>	\$ 35.00
<u>Pool Room Establishment License</u>	\$ 100.00
<u>Sexually Oriented Business License</u>	\$ 50.00

Section II.

The Building Permit Fee Schedule is amended to add a Valuations Table, which reads as follows:

Valuations Table									
Group (2015 International Building Code)	IA	IB	IIA	IIB	IIIA	IIIB	IV	VA	VB
A-1 Assembly, theaters, with stage	233.95	225.89	220.42	211.39	198.92	193.15	204.70	181.63	174.97
A-1 Assembly, theaters, without stage	214.40	206.35	200.88	191.84	179.53	173.76	185.16	162.23	155.58
A-2 Assembly, nightclubs	182.86	177.56	173.06	166.05	156.54	152.22	160.22	141.73	136.94
A-2 Assembly, restaurants, bars, banquet halls	181.86	176.56	171.06	165.05	154.54	151.22	159.22	139.73	135.94
A-3 Assembly, churches	216.47	208.41	202.95	193.91	181.79	176.02	187.23	164.50	157.85
A-3 Assembly, general, community halls, libraries, museums	180.57	172.51	166.04	158.00	144.89	140.11	151.32	127.59	121.94
A-4 Assembly, arenas	213.40	205.35	198.88	190.84	177.53	172.76	184.16	160.23	154.58
B Business	186.69	179.79	173.86	165.19	150.70	145.02	158.70	132.31	126.48
E Educational	197.52	190.73	185.77	177.32	165.32	156.97	171.23	144.39	140.26
F-1 Factory and industrial, moderate hazard	111.86	106.71	100.58	96.68	86.77	82.81	92.61	72.75	68.09
F-2 Factory and industrial, low hazard	110.86	105.71	100.58	95.68	86.77	81.81	91.61	72.75	67.09
H-1 High Hazard, explosives	104.68	99.53	94.40	89.50	80.80	75.84	85.43	66.78	0.00
H234 High Hazard	104.68	99.53	94.40	89.50	80.80	75.84	85.43	66.78	61.12
H-5 HPM	186.69	179.79	173.86	165.19	150.70	145.02	158.70	132.31	126.48
I-1 Institutional, supervised environment	187.63	181.26	176.01	168.60	155.33	151.11	168.69	139.15	134.82
I-2 Institutional, hospitals	314.17	307.27	301.34	292.67	277.18	0.00	286.18	258.79	0.00
I-2 Institutional, nursing homes	217.67	210.77	204.84	196.17	182.68	0.00	189.68	164.29	0.00
I-3 Institutional, restrained	212.42	205.52	199.59	190.92	177.93	171.25	184.43	159.54	151.71
I-4 Institutional, day care facilities	187.63	181.26	176.01	168.60	155.33	151.11	168.69	139.15	134.82
M Mercantile	136.25	130.95	125.45	119.44	109.43	106.11	113.60	94.63	90.83
R-1 Residential, hotels	189.35	182.99	177.74	170.33	156.80	152.58	170.42	140.62	136.29
R-2 Residential, multiple family	158.84	152.48	147.23	139.81	127.05	122.83	139.91	110.87	106.54
R-3 Residential, one- and two-family	148.17	144.14	140.42	136.90	131.89	128.41	134.60	123.40	116.15
R-4 Residential, care/assisted living facilities	187.63	181.26	176.01	168.60	155.33	151.11	168.69	139.15	134.82
S-1 Storage, moderate hazard	103.68	98.53	92.40	88.50	78.80	74.84	84.43	64.78	60.12
S-2 Storage, low hazard	102.68	97.53	92.40	87.50	78.80	73.84	83.43	64.78	59.12
U Utility, miscellaneous	80.38	75.90	71.16	67.61	60.99	57.00	64.60	48.23	45.92

SECTION III.

The final table is amended to add the title Fire Marshall Fee Schedule, and shall read as follows:

<u>Fire Marshall Fee Schedule</u>		
<u>Technology Fee (applies to each permit)</u>	<u>\$20.00</u>	
Plan Review Type	Fee Amount	
Site Plan Review		
Initial Review	\$100	
First Resubmittal Review	\$50	
Each Additional Review	\$150	
	< than 12,000 sq. ft.	> than 12,000 sq. ft.
Life Safety/Accessibility:		
Initial Review	\$100	\$100
First Resubmittal Review	\$50	\$50
Each Additional Review	\$150	\$150
Automatic Sprinkler System		
Initial Review	\$100	\$150
First Resubmittal Review	\$50	\$75
Each Additional Review	\$150	\$200
Fire Line		
Initial Review	\$100	\$150
First Resubmittal Review	\$50	\$75
Each Additional Review	\$150	\$200
Hood Suppression System		
Initial Review	\$100	
First Resubmittal Review	\$50	
Each Additional Review	\$150	
Construction Permit Inspections		Fee Amount
50%-80%-100% Any Construction w/o deficiencies		\$100
Follow-up inspections from non-compliance		
First Re-inspection		\$50
Second and all additional inspections		\$100

SECTION IV.

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 RESOLVED AND EFFECTIVE this the ____ day of _____, 2017.

[signatures on following page]

Jason Lary, Sr., Mayor

Attest:

Brenda James, Interim City Clerk

Approved as to Form:

Thompson Kurrie, Jr.
City Attorney



CITY COUNCIL AGENDA ITEM

SUBJECT: Ordinance to Amend Chapter 4- Alcoholic Beverages of the City of Stonecrest, Georgia Code of Ordinances

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

Date Submitted: 08/31/2017 Work Session: 09/13/2017 Council Meeting: 09/18/2017

SUBMITTED BY: City Attorney

PURPOSE:

HISTORY:

FACTS AND ISSUES:

OPTIONS:

RECOMMENDED ACTION: First Read Only

STATE OF GEORGIA
COUNTY OF DEKALB
CITY OF STONECREST

ORDINANCE 2017-_____

**AN ORDINANCE TO AMEND CHAPTER 4 - ALCOHOLIC BEVERAGES, OF THE
CITY OF STONECREST, GEORGIA CODE OF ORDINANCES**

AN ORDINANCE TO AMEND CODE SECTION 2017-06-05 OF THE CODE OF ORDINANCES OF THE CITY OF STONECREST IN ORDER TO PROVIDE FOR AN ALCOHOLIC BEVERAGE HEARING OFFICER; AND FOR OTHER PURPOSES

WHEREAS, the Georgia Alcoholic Beverage Code (O.C.G.A. § 3-1-1 et al.) regulates state-wide alcoholic beverage related activities in the State of Georgia;

WHEREAS, Pursuant to Section 1.03 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 generally regulate the use of real property and the sale of alcohol for the purposes of maintaining health, morals, safety, security, peace, and the general welfare of the City;

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;

WHEREAS, the Mayor and Council wish to amend Chapter 4 of the Code of Ordinances for the City of Stonecrest, Georgia to provide for an alcohol hearing officer and provide certain zoning restrictions for the sale of alcohol.

NOW THEREFORE BE IT ORDAINED by the Mayor and Council of the City of Stonecrest that the City’s Code of Ordinances, Chapter 4 – Alcoholic Beverages is amended as follows:

SECTION I.

Section 4.2.9(g) is hereby amended to state:

- (g) An alcoholic beverage license shall be granted unless an applicant fails to meet the qualifications for an alcoholic beverage license under this chapter. The City Manager or his designee shall provide written notice to any applicant whose application is denied under the provisions of this chapter within thirty (30) days of filing a properly completed application or within fifteen days (15) of obtaining the criminal background check or records identified in subsection (e), whichever is later. An application for an alcoholic

beverage license is complete when it contains the information required by this chapter and is accompanied by the license fee in the amount established by action of the city council. Such written notification shall set forth in reasonable detail the reasons for such denial and shall advise the applicant of the right to appeal to the alcohol ~~beverage review board~~ review hearing officer under the provisions of this division within fifteen (15) days from date of notice. If a license is not issued or denied within the time frame specified herein, the license shall be automatically approved.

SECTION II.

Article III is hereby amended to read as follows:

ARTICLE III – ALCOHOL REVIEW BOARD HEARING OFFICER

Sec. 4.3.1. – Alcoholic Review Board Hearing Officer establishment; ~~composition~~

There is hereby established an alcohol review board ~~(sometimes referred to as the "ARB") which hearing officer who shall have the responsibility for alcoholic beverage appeals. The ARB shall consist of five (5) members, one from each district in the City of Stonecrest, who~~ The alcohol review hearing officer shall be appointed by the mayor and confirmed by the city council. ~~Any member must comply with the requirements of Section 2.14 of the Charter of the City of Stonecrest, and He or she shall serve a term of two (2) years. Any member may be removed in accordance with Section 2.14 of the Charter of the City of Stonecrest.~~

Sec. 4.3.2. - Alcoholic beverage appeals.

The alcoholic beverage appeals shall be heard by the ~~ARB~~ alcohol review hearing officer who shall have the following duties:

- (a) To hear appeals from decisions of the City Manager or his designee denying the issuance or renewal of any license pertaining to the sale of alcoholic beverages in the city;
- (b) To hear appeals from the decisions of the City Manager or his designee revoking or suspending any license pertaining to the sale of alcoholic beverages in the city;
- (c) To hear appeals from the decisions of the City Manager or his designee denying the issuance of permits pertaining to employment in a licensed establishment;
- (d) To hear appeals from the decisions of the City Manager or his designee revoking or suspending an employee permit to an employee of a licensed establishment.

Sec. 4.3.3. - Hearings.

- (a) No license or permit under this chapter shall be denied, suspended or revoked without the opportunity for a hearing as hereinafter provided.

- (b) The City Manager or his designee shall provide written notice to the applicant or licensee of the decision to deny, suspend or revoke the license or permit. Such written notification shall notify the applicant or licensee of the right of appeal. Any applicant or licensee who is aggrieved or adversely affected by a final action of the City Manager or his designee may have a review thereof by appeal to the alcoholic beverage appeals hearing officer. Such appeal shall be by written petition filed with the city clerk within fifteen (15) days from the final decision or action by the city.
- (c) A hearing shall be conducted on each appeal within thirty days of the date of filing of the appeal, unless a continuance of such date is agreed to by the appellant and the issuing department. The appellant at such hearing shall have the right to be represented by an attorney at the expense of the appellant, and to present evidence, cross-examine witnesses, and have the hearing transcribed.
- (d) ~~A majority of the members of the ARB shall constitute a quorum. All findings of the ARB~~ alcohol review hearing officer must be approved by a majority of the quorum. The alcohol review hearing officer shall comply with the guidelines of due process set forth in O.C.G.A § 3-3-2(b).
- (e) The findings of the ~~ARB~~ alcohol review hearing officer shall be forwarded to the appellant and the City at the conclusion of the hearing.
- (f) The findings of the ~~ARB~~ alcohol review hearing officer shall be final unless appealed within thirty (30) days of the date of the findings by certiorari to the superior court of the county.

Sec. 4.3.4. - Service of notices.

For the purpose of this article, notice shall be deemed delivered when personally served or, when served by mail, within three (3) days after the date of deposit in the United States mail.

SECTION III.

This Amendment shall be codified in a manner consistent with the laws of the State of Georgia and the City.

SECTION IV.

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

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

(c) In the event that any phrase, clause, sentence, paragraph or section of this Amendment 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 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 Amendment and that,

to the greatest extent allowed by law, all remaining phrases, clauses, sentences, paragraphs and sections of the Amendment shall remain valid, constitutional, enforceable, and of full force and effect.

SECTION V.

All ordinances and parts of ordinances in conflict with this Amendment herewith are hereby expressly repealed.

SECTION VI.

The effective date of this Amendment shall be the date of adoption unless otherwise stated herein.

SECTION VII.

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.

[signatures on following page]

ORDAINED this _____ day of _____, 2017.

CITY OF STONECREST, GEORGIA

Jason Lary, Sr, Mayor

ATTEST:

Brenda James, Acting City Clerk

APPROVED AS TO FORM BY:

Thompson Kurrie, City Attorney



CITY COUNCIL AGENDA ITEM

SUBJECT: Financial Management Policies Purchasing Policy

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

Date Submitted: 08/31/2017 Work Session: 09/13/2017 Council Meeting: 09/18/2017

SUBMITTED BY: City Attorney Office

PURPOSE:

HISTORY:

FACTS AND ISSUES:

OPTIONS:

RECOMMENDED ACTION: Discussion and Recommendation of Council

City of Stonecrest, GA

Financial Management Policies

Purchasing Policy

Purchasing Policy

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Purchasing Policy

PURCHASING POLICY

I. Purpose

The purpose of this policy is to state the City's position regarding the responsibility and authority for the acquisition and contracting for Goods, Services, Professional Services, Real Estate, and Capital Assets. This document will clarify purchasing functions and outline purchasing policies, as well as describe departmental relationships, responsibilities and participation in the procurement cycle. This policy will provide control functions, assure proper record keeping and confirm purchases in writing to allow the City to meet the following goals:

- A. Maintain at all times and under all conditions a continuous supply of Goods and Services necessary for the operation of the City;
- B. Encourage and promote fair and equal opportunity for all persons doing, or seeking to do, business with the City;
- C. Safeguard the quality and integrity of the City's procurement process;
- D. Ensure compliance with laws and regulations pertaining to the procurement of Goods, Services, Professional Services, Real Estate, Construction Services and Capital Assets;
- E. Manage procurement and inventories of purchased Goods to meet the use requirements of City departments at the most advantageous cost to the City;
- F. Administer procurement contracts and contract amendments; and
- G. Properly dispose of all material and equipment declared to be surplus or obsolete.

In addition, this policy is to set a standard of environmentally preferable procurement and demonstrate the City's commitment to environmental, economic, and social stewardship. The City has a unique opportunity to further expand its leadership in the area of environmentally preferable purchasing, and through its actions, elicit changes in the marketplace. By further incorporating environmental considerations into public purchasing, the City will positively impact human health and the environment, remove unnecessary hazards from its operations, reduce costs and liabilities, and improve the environmental quality of the region. This policy will guide the City's efforts in procuring environmentally preferable Goods and Services.

The philosophy behind this policy is one of separating the need for Goods and Services from the function of negotiation and executing the necessary contractual purchase agreement.

The Purchasing Policy outlined herein shall be used in conjunction with the Purchasing Card Policy.

Purchasing Policy

II. Scope

The scope of this purchasing policy covers the procurement of most Goods and Services for non-construction purposes without regard to the past method by which the material or service has been or is customarily procured. The policy covers all contractual and purchase agreements between the City and another Person. The procurement function includes the initial agreement/purchase, changes and/or re-negotiations. This policy establishes the specific responsibility and authority of the procurement of materials and services.

As part of the audit process, the internal controls and accounting processes outsourced to municipal services Vendors will be evaluated and a measure of assurance given as a requirement of completion of the City's annual audit. The staff of outsourced municipal services Vendors assigned to work at City offices and perform purchasing activities on behalf of the City is not exempt from the City's adopted Purchasing Policy. Furthermore, unless due to the lack of competitive options, the City will not typically procure Goods and Services from outsourced municipal services Vendors not expressly stated in their contract to provide municipal services or which do not have a direct impact on the Vendor's ability to provide those contracted services.

The provisions of this policy do not apply to procurements for the following:

- A. Public works construction contracts to the extent governed by O.C.G.A. §36-91-1 et seq.;
- B. Services and construction whose procurement falls under a conflicting federal or Georgia statute;
- C. Land, artistic work, or other goods whose inherent nature is unique and cannot be competitively compared to other goods within its class, except as provided in Section VIII. Real Estate Acquisition;
- D. Employee Benefits and health related services procured through a quotation and negotiating process conducted by an expert in the field, or to maintain continuity of employee-health records;
- E. Travel, entertainment, conferences, training, speakers, instructors, facilitators, and meeting expenses, or other expenditures covered by another City policy;
- F. Insurance procured through a negotiating process;
- G. Items or services procured for resale or to generate a revenue;
- H. Advertising;
- I. Subscriptions and dues established during the budget process;
- J. Utilities;
- K. Seized Property included in a court order authorizing disposal; and
- L. Contracts involving federal funding whose procurement falls under a conflicting federal or Georgia statute or regulation, except as provided in Section XI.

Purchasing Policy

III. Definitions

When used in this policy, the following words, terms and phrases, and their derivations, shall have the meaning ascribed to them in this section, except where the context clearly indicates a different meaning:

- A. ADDENDUM means a change, clarification or correction in the Solicitation Documents, prior to the award of a Contract.
- B. AMENDMENT means an agreed upon change order, addition to, deletion from, correction or modification of a Contract including a Contract Extension or a Contract Renewal.
- C. APPEAL means a specific written objection by an interested Person to a Request for Qualifications, a Request for an IWQ, an Invitation for Bid, an Invitation to Negotiate, a Request for proposal, or an award or proposed award of a Contract, with the intention of receiving a remedial result.
- D. BID / PROPOSAL BOND means a form of bid security executed by the Bidder (or Proposer) as principal and by a Surety, to guarantee that the Bidder (or Proposer) will enter into a Contract within the time specified in the Invitation for Bid or Request for proposals, and will furnish the necessary bonds and insurance, and meet any other requirements of those documents.
- E. BIDDER means a person or entity submitting a bid or quote to the City for the supply of Goods or Services.
- F. BUYING COOPERATIVE OR ALLIANCE means a group of public entity purchasers organized for the purpose of creating contracts or pricing agreements in order to take advantage of group or quantity buying discounts or special pricing from which members of the group can benefit.
- G. CAPITAL ASSET is an item of personal property having a normal life expectancy of three years or more other than components.
- H. CITY means the City of Stonecrest and, as the context warrants, those persons or bodies authorized to act on its behalf, including but not limited to the City Council, committees, boards and staff.
- I. CITY ETHICS POLICY shall mean Article X, Ethics, of Chapter 2, Administration, of the Code of the City of Stonecrest, Georgia.
- J. CITY FINANCE DIRECTOR/FINANCE DIRECTOR means the City Accountant as described in the City Charter, his agent, or the department head of the City Finance Department, if such a department is in existence.
- K. COMPETITIVE AWARD means a procurement based upon the outcome of one of the competitive processes set forth in this Policy, where award is made based on the lowest quotation or Bid submitted by a responsible and responsive Bidder or to the most qualified or advantageous Proposer based on the qualitative and/or quantitative factors identified for the procurement. A Competitive Award can be made even if only a single bid or proposal has been received from a Bidder or Proposer who is determined to be responsible and responsive.

Purchasing Policy

- L. CONSTRUCTION means the process of building, altering, improving or demolishing any public structure or building, or other public improvements of any kind to any public real property including the provision of materials therefor. The term "Construction" does not include the routine operation, repair and/or maintenance of existing structures, buildings or real property.
- M. CONSTRUCTION SERVICES means services rendered by an independent and licensed contractor having expertise in Construction.
- N. CONTRACT means all types of City agreements for the purchase or disposal of Goods, Real Estate or Capital Assets, and the procurement of Services, Professional Services or Construction Services regardless of what they may be called, including contracts for a fixed price, cost plus a fixed fee, incentive contracts, and contracts providing for the issuance of job or task orders, leases, letter contracts and purchase orders. Contracts also include Amendments, modifications and supplemental agreements with respect to any of the foregoing. Every Contract must be duly authorized and approved prior to execution.
- O. CONTRACT EXTENSION means an Amendment to a Contract that includes an increase in the term of a Contract, for which no options to renew the Contract beyond the current expiration date exist.
- P. CONTRACT RENEWAL means an exercise of an approved, existing option to increase the term of a Contract. Options to renew a Contract are often done in annual increments.
- Q. EMPLOYEE means an individual drawing a salary or wage from the City whether on a full-time or part-time basis. The term shall encompass all members of the City Council without regard to whether or not such individuals are compensated. For purposes of this Purchasing Policy the term "employee" shall include, any Vendor or any employee of such Vendor who has entered into a Contract with the City to provide administrative and department services contemplated in Section 2.12 of the Charter of the City.
- R. EMERGENCY PROCUREMENT means any procurement of Goods, Capital Assets, Services or Professional Services in the context of an Emergency.
- S. EMERGENCY means a situation that occurs suddenly and unexpectedly and demands immediate action to prevent delays which may vitally affect the health, safety or welfare of the public or City Employees and affects the continuation of services to the citizens, and/or serious loss or injury to the City. Emergency shall also mean a condition, malfunction, or occurrence in which the immediate procurement of an item (i.e. Good, Services, or Professional Service) is essential to comply with regulatory requirements.
- T. ENVIRONMENTALLY PREFERABLE GOODS AND SERVICES means Goods and Services that have a lesser or reduced negative effect on human health and the environment when compared with competitive Goods and Services that serve the same purpose.
- U. GIFTS or FAVORS means anything of any service or value. Value shall as defined in any City of Stonecrest ethics policy.

Purchasing Policy

- V. GOODS or COMMODITIES means supplies, apparatus, materials, equipment and other forms of tangible personal property used by a City department in the accomplishment of its responsibilities other than Capital Assets.
- W. GOVERNING AUTHORITY means the Mayor and City Council of the City of Stonecrest or its designee(s).
- X. INFORMAL WRITTEN QUOTES (IWQ) means all documents utilized for soliciting quotations for Goods, Services, or Professional Services, in which award is made based on the lowest responsive and responsible quotation and in which the type or cost of the procurement does not require a more formal Bid or proposal process.
- Y. INVITATION FOR BID (IFB) means all documents utilized for soliciting bids, including those attached or incorporated by reference. These include a scope of work and all contractual terms and conditions applicable to the procurement. Bids are requested when requirements are clearly defined, price is the major determining factor for award, and a formal sealed submittal is required.
- Z. INVITATION TO NEGOTIATE (ITN) means documents used for soliciting competitive proposals in which negotiation of price and other factors is to commence after receipt of proposals and prior to recommendation of award. This process may be used when the scope of work is complex or difficult to define, if strict comparison of Services or Goods required may be difficult because components are likely to vary among Proposers or in any situation when it is in the City's best interest to negotiate prior to recommendation of award to obtain the Services or Goods that best meet the City's needs, price and other factors being considered.
- AA. LATE BID/PROPOSAL means a Bid or proposal received after the time or date such bid or proposal was due, as stated in the Solicitation Documents.
- BB. LIFE CYCLE COST ASSESSMENT means the comprehensive accounting of the total cost of ownership, including initial costs, energy and operational costs, longevity and efficacy of service and disposal costs.
- CC. MULTIPLE AWARD SCHEDULE CONTRACT means a Contract based upon one solicitation awarded to two or more Vendors to supply Goods or Services.
- DD. NEGOTIATED AWARD means a procurement made as the result of negotiations between the City and a Supplier, such as a Sole Source Procurement or Single Source Procurement or another instance, including competitive Invitation to Negotiate, where a Contract award based on direct negotiations with a Supplier of Goods or Services is appropriate.
- EE. OFFICIAL means any City elected or appointed person who holds office or any person appointed by the mayor and council of the City to serve on (1) the planning commission of the City, (2) any board or commission of the City having quasi-judicial authority; and, (3) any authority created by the City, either individually or jointly with other local governments pursuant to Georgia law.
- FF. ONLINE REVERSE AUCTION means a purchasing method wherein Bidders enter prices for items electronically, and their prices are displayed for other bidders to see with all Bidders given the opportunity to continually bid a lower price until the time period of the bid expires.

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- GG. ORDINANCE means related Administration Ordinance in Chapter 2 of the City's Municipal Code.
- HH. PAYMENT TERMS means the established due date for payments by the City to pay an invoice. Absent any agreement otherwise stated, the City's payment term will be Net 30.
- II. PERFORMANCE BOND means a bond provided by a contractor/supplier in which a surety guarantees to the City that the Goods or Capital Assets are delivered or the Services or Construction Services are performed in accordance with the Contract documents. A letter of credit issued by a financial institution that meets the City's requirements may, at the reasonable discretion of the City, be substituted for the performance bond.
- JJ. PERSON means any business, entity, company, firm, individual, union, committee, club or other organization or group of individuals.
- KK. PRACTICABLE means satisfactory and within reason when considering price, performance, availability, compatibility with specified operation, and public safety.
- LL. PRE-QUALIFICATION means the part of a competitive procurement process in which the City determines, based on standards developed for a specified product or service, which interested Vendors meet those standards and are eligible for further consideration in the purchasing process.
- MM. PROFESSIONAL SERVICES means services rendered by an independent contracting individual or firm having expertise in a particular industry or subject matter due to specialized education, training, licensure or skill, and consisting primarily of advice reports, conclusions, recommendations or other outputs resulting from the time and effort of the service provider, as opposed to the acquisition of specific commodities, or of services not requiring any specialized education, licensing, training or skill (e.g. janitorial services). Professional Services include but are not limited to evaluations, consultations, management systems, management consulting, compiling statistical data, support of planning and operating activities, appraisal services, and research and development studies or reports.
- NN. PROPOSER means a Person submitting a proposal or qualifications to the City for the supply of Goods, Capital Assets, Real Estate, Construction Services, Services, or Professional Services.
- OO. PURCHASE ORDER means a document approved and issued by the Purchasing Agent or designee and accepted by the Vendor to obtain Goods, Capital Assets, and Services.
- PP. PURCHASING is the process of securing real estate, capital assets, materials, services, repairs, leases and rentals necessary for the operation and support of the City. The renewal, renegotiations and changes to Contracts, leases and agreements are functions of purchasing.
- QQ. PURCHASING AGENT means the principal purchasing official of the City who is authorized and appointed to purchase a range of Goods, Capital Assets, Real Estate, Services, Construction Services, or Professional Services on a routine basis.
- RR. REAL ESTATE means land and any improvements and appurtenances thereto.
- SS. REAL ESTATE ACQUISITION means the acquisition of a fee interest, estate for years or usufruct in Real Estate by purchase or lease.

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- TT. REQUEST FOR PROPOSALS (RFP) means all documents utilized for soliciting proposals for Goods, Capital Assets or Services, including those attached or incorporated by reference. These include a scope of work and all contractual terms and conditions applicable to the procurement. This method is used when factors in addition to price are considered for award.
- UU. REQUEST FOR QUALIFICATIONS (RFQ) means all documents utilized for soliciting qualifications for Goods, Services, Capital Assets, Construction Services or Professional Services.
- VV. REQUISITION means an internal document, provided by a department to the Purchasing Agent that contains the fund source, approvals, descriptions, quantities and other information about the Goods, Capital Assets, Real Estate, Services, Construction Services or Professional Services in order to proceed with the procurement. The Requisition becomes valid when properly completed and approved.
- WW. RESPONSIBLE BIDDER OR PROPOSER means a Person, who, in the exclusive judgment of the City, (a) has the capability in all respects to fully perform the Contract requirements; and (b) the integrity, experience, qualification, and reliability which assures good faith performance.
- XX. RESPONSIVE BIDDER OR PROPOSER means a Person, who, in the exclusive judgment of the City, has submitted a bid or proposal that conforms in all material respects to the Solicitation Documents.
- YY. SERVICES mean any performance of effort or labor, for which the City has contracted other than Professional Services or Construction Services. Services include, but are not limited to, janitorial, landscaping, and street striping.
- ZZ. SHORTLISTING means the part of a competitive procurement process in which the City determines, based on criteria developed for a specified Good, Service, or Professional Service which of the interested Vendors are the best qualified to be eligible for further consideration in the purchasing process.
- AAA. SINGLE-SOURCE PROCUREMENT means identifying and using, without first completing a competitive process, one source for Goods, Capital Assets, Real Estate, Services, Professional Services or Construction Services among others in a competitive marketplace, which, for justifiable reasons, is found to be most advantageous for the purpose of fulfilling a given Purchasing need of the City.
- BBB. SOLE-SOURCE PROCUREMENT means identifying and using, without first completing a competitive process, one source for Goods, Capital Assets, Real Estate, Services, Professional Services or Construction Services when that source is the only one available that can fulfill a given Purchasing need of the City.
- CCC. SOLICITATION DOCUMENTS means an Invitation for Bids, Request for proposals, Request for Qualifications, Request for Quotations, or an Invitation to Negotiate including all of the associated forms and documents of each solicitation, or any other types of documents used by the City to procure Goods, Services, Capital Assets, Real Estate, Construction Services or Professional Services.

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DDD. SPECIFICATION OR SCOPE OF WORK means any description of the physical or functional characteristics, or of the nature of Goods, Services, Capital Assets, Real Estate, Construction Services or Professional Services. Specifications or Scope of Work may include any function and other criteria that will be required to perform the work and a description of any requirement for inspection, testing, or delivery.

EEE. SUPPLIER, MERCHANT OR VENDOR means a Person currently supplying or in the business of supplying Goods, Services, Capital Assets, Real Estate, Construction Services or Professional Services.

FFF. SURETY means an organization who, for a consideration, promises in writing to make good the debt or default of another organization. The Surety must be satisfactory to the City and licensed to do business in Georgia.

GGG. THE USING DEPARTMENT/DIVISION (User) is defined as the department which has the authority and responsibility for determining the need for an item or service, its related specifications, and need date. The User is responsible for funding the need and advising Purchasing of the approved funding and the specific budget account number. The User is responsible for authorizing the purchases of all materials, services, repairs, leases and rentals in which the negotiated price exceeds the approved funding.

IV. Ethics in Procurement

Each person involved in the procurement process must adhere to a high standard of ethics. Each will be bound by the City Code of Ethics and this Article IV. Whenever this Article IV conflicts with the City Code of Ethics, the City Code of Ethics shall control.

A. Employee Conflict of Interest

It shall be unethical for any City Employee or Official to transact any business or participate directly or indirectly in a procurement Contract when the Employee or Official knows that:

1. The Employee or Official or immediate family of such Employee or Official has a substantial interest pertaining to the procurement Contract, except that the purchase of Goods and Services from businesses which a member of the City Council or other City Employee has a substantial interest is authorized as per O.C.G.A. § 36-1-14, or the procurement Contract is awarded pursuant to O.C.G.A. § 45-10-22 and § 45-10-24, or the transaction is excepted from said restrictions by O.C.G.A. § 45-10-25, interpreting such statutes as if they were applicable to a municipality.
2. Any other person, business or organization with whom the Employee, Official or immediate family of such Employee or Official is negotiating or has an arrangement concerning prospective employment is involved in the procurement Contract.
3. An Employee, Official or any immediate family of such Employee or Official who holds a substantial interest in a disclosed blind trust shall not be deemed to have a conflict of interest with regard to matters pertaining to that substantial interest.

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4. All Employees and Officials will be asked to sign a disclosure document indicating his or her compliance with the City Ethics Policy.
5. The terms “immediate family” and “substantial interest” shall have the meaning given to such terms in the City Code of Ethics.

B. Gratuities, Rebates or Kickbacks

1. **Gratuities.** It shall be unethical for any person to offer, give, or agree to give any Employee or Official or for any Employee or Official to solicit, demand, accept, or agree to accept from another person, a gratuity, rebate, loan an offer of employment or other services or property of value in connection with any decision, approval, disapproval, recommendation or preparation of any part of a program requirement or a purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing or in any other advisory capacity in any proceeding or application, request for ruling, determination, claim or controversy, or other particular matter, pertaining to any program requirement or a Contract or subcontract, or to any solicitation or proposal therefore in any manner inconsistent with the State of Georgia’s Department of Administrative Services Gratuity Policy. Rebates normally or routinely offered to customers in the ordinary course of business of such Vendor for the purchase of their Goods and Services are acceptable and are the property of the City.

Nothing in this section shall preclude an Employee or Official of the City from attending seminars, courses, lectures, briefings, or similar functions at any Vendor's facility or at any other place if any such seminar, course, lecture, briefing, or similar function is for the purpose of furnishing the Official, Employee, or Agent with knowledge and information relative to the Vendor's products or services and is one which the City Manager determines would be of benefit to the City.

In connection with any such seminar, course, lecture, briefing, or similar function, nothing shall preclude the Employee or Official from receiving meals or educational materials and business related items of not more than nominal value from a Vendor.

Nothing contained in this section shall permit the Employee or Official to accept travel or lodging for less than the value thereof from any Vendor.

2. **Kickbacks and Rebates.** It shall be unethical for any payment, gratuity, or offer of employment to be made by or on behalf of a subcontractor under a Contract to the prime contractor or higher tier subcontractor, or any person associated therewith, as an inducement for the award of a subcontract or order.
3. **Contract Clause.** The prohibition against gratuities, rebates and kickbacks prescribed in this Section shall be conspicuously set forth in every Contract and Solicitation Documents therefore.
4. **Courtesies.** Employees may accept for themselves and members of their families common courtesies usually associated with customary business practices so long as a strict standard is enforced with respect to gifts, services, discounts, entertainment or consideration of any kind

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from suppliers of merchandise, services, supplies, etc. to the City. An example of a common courtesy is free pens or notepads with the Vendor's name on them.

5. Cash. It is never permissible for an Employee or Official to accept a gift in cash, cash equivalents, stocks or other forms of marketable securities of any amount.

C. Prohibition Against Contingent Fees

It shall be unethical for a person to be retained, or to retain a person, to solicit or secure a Contract upon any agreement or understanding for a commission, percentage, brokerage or contingent fee, except for agreements with manufacturer representatives, or agents, including but not limited to commercial services sales agents engaged in the business of soliciting contracts on behalf of Vendors.

D. Use of Confidential Information

It shall be unethical for any Employee or Official knowingly to disclose or use confidential information for actual or anticipated personal gain, or for the actual or anticipated personal gain of any other person.

E. Unauthorized Purchases

No purchases of Goods and Services shall be made in the name of the City or one of its departments, except such as is required for official use by the City or one of its departments. Purchases in the name of the City or a department for personal use by an individual or for other than official use are prohibited, and no City funds will be expended or advanced therefore.

F. Penalties and Sanctions

1. Legal or disciplinary action by City Council. The City Council may take appropriate legal and/or disciplinary actions pursuant to the City Code of Ethics against any Employee, Official or other Person in violation of these ethical standards.
2. Legal or disciplinary action by City Manager. The City Manager is authorized to take any appropriate legal and/or disciplinary actions, including dismissal, of any Employee violating this Ethics Policy.
3. Administrative penalties for Employees. The City Manager may impose any one or more of the following penalties or sanctions on an Employee for violations of the ethical standards in this Section as appropriate to the situation, subject to the Personnel Manual or other appropriate appeals procedures:
 - a) Oral or written warnings or reprimands.
 - b) Suspensions with or without pay for specified periods of time.
 - c) Termination of employment.

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4. Administrative penalties for outside contractors/Vendors. The City may impose any one or more of the following penalties or sanctions on a Vendor or other Person or organization for violations of these ethical standards:

- a) Written warnings or reprimands.
- b) Termination of Contracts.
- c) Debarment or suspension.

G. Disclaimer of Responsibility for Improper Purchasing

The City may disclaim responsibility and liability for any purchase, expenditure, or agreement for expenditure arising from any procurement made in its name, or in the name of any governmental body under its authority, by an unauthorized person or any person acting outside this Policy or the authorization or delegation as provided in this Policy. The expense of any such disclaimed transaction will become the personal liability of the individual who acted improperly.

H. Vendor Contact During Open Solicitations

Persons seeking an award of a City contract may not initiate or continue any verbal or written communications regarding a solicitation with any Official, Employee or other City representative other than the Purchasing Agent named in the solicitation between the date of the issuance of the solicitation and the date of the final contract award. The City Manager or designee will review violations. If determined that such communication has compromised the competitive process, the offer submitted by the individual, firm or business may be disqualified from consideration for award.

V. **Responsibility**

A. Purchasing Agent

The City Council appoints the City Manager, or such other Employee appointed by the City Manager, to serve as the Purchasing Agent for the City, or the City Council may contract with an independent third party to serve as the Purchasing Agent under the direction and control of the City Manager (City Code Chapter __, Article __, Section __).

DUTIES: The Purchasing Agent shall have the following duties and powers:

1. Arrange and negotiate the purchase or Contract for all equipment, supplies and contractual services for the City or any using agency; arrange and negotiate for the sale or otherwise dispose of all surplus equipment and supplies or real estate of the City or any using agency, subject to the approval of the City Manager and/or the City Council.
2. Maintain a perpetual or periodic inventory record of all materials, supplies, software, or equipment stored in city storerooms, warehouses, and elsewhere, including monthly reports to the Finance Director that include:

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- a) Titles of all formal solicitations and the method of source selections to be used.
 - b) Contracts authorized by the City Council, the method of source selection used and the total dollar amount.
 - c) Emergency Contracts awarded pursuant to Section 1.03 of the City's Charter.
 - d) Change orders or Contract modifications authorized by the City Council and the dollar amount and reason.
 - e) Amendments or change orders authorized by the Purchasing Agent and the dollar amount and reason.
 - f) Explanation of any changes, and the costs involved, in the scope of services made between the time a Contract is awarded and the time that the Contract is authorized by the City Council.
 - g) Documentation of the types, quantities, and dollar amounts of environmentally preferable Goods (including the percentage of post-consumer and total recovered material content) and Services purchased. The report shall also include dollar amounts of non-environmental or conventional Goods and Services, identify and discuss instances where this policy is waived or its requirements found impracticable, and highlight barriers to the procurement of environmentally preferable Goods and Services, if applicable.
- 3. Manage and supervise purchasing staff.
 - 4. Control and supervise all City storerooms and warehouses.
 - 5. Maintain and adhere to all City purchasing procedures and purchasing procedures manual which will be updated by City Manager periodically.
 - 6. Establish guidelines, within the purchasing procedures manual, governing the review and approval of specifications for procurement of Goods, Capital Assets and Services based on recyclability, energy and water conservation, life cycle cost, and other environmental considerations.
 - 7. Direct efforts to procure Goods, Capital Assets, Real Estate, Services, Construction Services and Professional Services in accordance with the requirements of this Purchasing Policy, the Code of the City of Stonecrest and Georgia law.
 - 8. Where in the best interest of the City, require Bid/Proposal Bonds, insurance and other forms of protection for the City on the process of procuring Goods, Capital Assets, Services and Construction Services for the City.
 - 9. Terminate solicitations for bids for any Goods, Capital Assets, Services, Construction Services and Professional Services when, in the opinion of the Purchasing Agent, it is in the City's best interest to do so.

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10. Reject any and all bids, when in the opinion of the Purchasing Agent it is in the City's best interest to do so.
11. Consult with the City Attorney if a contracting party breaches or is reasonably anticipated to breach its Contract with the City.
12. The City Council shall approve final Contracts and Amendments valued more than \$_____ and execute and bind the City to such agreements. Contracts valued at less than \$_____ may be approved, executed and delivered by the City Manager or designee of the City Manager with a copy of said contract to be delivered to the City Council by the City Clerk via email. No Contract shall be approved pursuant to this Subsection 12, unless the funds therefor have been appropriated in the budget of the City or otherwise by the City Council.
13. Advise the Finance Director and City Manager on the status of negotiations, as well as Contract provisions and their impacts on the City.
14. Make recommendations on Contract approval, rejection, Amendment, and cancellation.
15. Provide Contract administration and supervision of Contracts. Such tasks shall include, but not be limited to, monitoring Amendments, obtaining applicable insurance certificates and monitoring applicable progress.
16. Plan and implement processes for the ongoing protection of the City's interests.
17. Recommend and implement policies and procedures to provide for compliance with laws related to bidding, Contracting and Purchasing as set forth in the State of Georgia Code and Regulations, by examining the applicable laws and developing procedures for bidding, Contracting and procurement processes.
18. Ensure all Contracts are reviewed and approved by the City Attorney as required by Section 3.08 of the City Charter.
19. Whenever possible, utilize City-generated and City Attorney-approved standard goods/services purchasing agreements.
20. Ensure Council is notified as soon as reasonably possible of all upcoming and active competitive procurements.
21. Ensure all procurements over \$25,000.00 have Council approval.

B. Using Department/Division (User)

1. Determine Need: The User is responsible for determining the need for a material or service and providing appropriate documentation and justification therefor, including a purchase requisition.
2. Determine Funding: The User is responsible for providing proper funding. Specific budget account numbers must be on the purchase requisition.

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3. Determine Specifications: The User is responsible for determining the quantity, quality, dimensions, duration and all other necessary specifications essential to the determination of what is to be procured. The specifications must, where applicable, conform to the approved City standards for identity and continuity.
4. Purchase Requisition: It is imperative that the User transmits its need to the Purchasing Agent. The Purchasing Agent can only purchase supplies and services on the basis of an approved and completed Requisition. A properly approved Requisition contains, as a minimum, the following information:
 - a) Complete description and specifications.
 - b) Quantity.
 - c) Need date (lead time of at least one week, must be allowed).
 - d) Estimated cost.
 - e) Freight.
 - f) Complete budget account number.
 - g) Previous purchase information or quotation (if known).
 - h) Known or suggested Vendor(s).
 - i) Authorized approval of department head and division head.
 - j) Authorized approval from the Budget/Finance Department.
5. Acceptance of Procured Item or Service: Within 24 hours, the User is responsible for advising the Purchasing Office in writing on a receiving report the receipt of the Goods procured and whether or not such Goods are found to be unsatisfactory.

VI. Environmentally Preferable Goods and Services

In determining which Goods, Capital Assets and Services to purchase, the City shall integrate environmental factors into the City's procurement decisions, when available and commercially practicable in the reasonable discretion of the User. At a minimum, the City shall strive to whenever possible and practicable:

1. Purchase copy, computer, and fax paper with at least 30 percent post- consumer recycled content;
2. Purchase non-emergency fleet vehicles that provide the best available net reduction in vehicle fleet emissions, including but not limited to the purchase of alternative fueled and hybrid vehicles;

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3. Consider purchasing lower emission emergency fleet vehicles with comparable specifications for performance, safety, and fuel availability during emergencies as conventionally-powered emergency fleet vehicles;
4. Purchase at least Energy Star rated equipment and appliances for use in local government facilities when practicable based upon considerations of Life Cycle Costs;
5. Purchase water-saving products, including WaterSense labeled, whenever practicable, including but not limited to, high performance fixtures such as toilets (1.28 gallons per flush or less), urinals (0.5 gallons per flush or less), low-flow faucets (1.5 gallons per minute or less), aerators, and upgraded high-efficiency irrigation systems;
6. Replace disposable with re-usable, recyclable, or compostable Goods;
7. Consider Life Cycle Cost Assessment; and
8. Evaluate, as appropriate, the environmental performance of Vendors in providing Goods and Services.

This analysis to determine environmentally preferable Goods Services may include raw materials acquisition, production, manufacturing, packaging, distribution, reuse, operation, maintenance, disposal of products, or service delivery.

Specifically, factors that should be considered by the User when determining that Goods have environmentally preferable attributes include, but are not limited to:

1. Minimization of virgin, unrecycled material used in Goods;
2. Maximization of recycled materials used in Goods;
3. Life cycle economics of Goods and Services;
4. Reuse of existing Goods or materials in Goods;
5. Recyclability, biodegradability and compostability of Goods;
6. Minimization of packaging;
7. Reduction of energy and fuel consumption;
8. Reduction of water consumption;
9. Toxicity reduction or elimination;
10. Durability and maintenance requirements; and
11. Ultimate disposal of the Goods.

VII. Preference for Products Manufactured in Georgia

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When contracting for or purchasing supplies, materials, equipment, or agricultural products, excluding beverages for immediate consumption, the City shall give preference, as far as may be reasonable, economical, and practicable, to such supplies, materials, equipment, and agricultural products as may be manufactured or produced in the State of Georgia. Such preference shall not sacrifice quality.

In determining whether such a preference is reasonable in any case where the value of a contract for or purchase of such supplies, materials, equipment, or agricultural products exceeds \$100,000.00, the City shall consider, among other factors, information submitted by the bidder which may include the bidder's estimate of the multiplier effect on gross state domestic product and the effect on public revenues of the state and the effect on public revenues of political subdivisions resulting from acceptance of a bid or offer to sell Georgia manufactured or produced goods as opposed to out-of-state manufactured or produced goods. Any such estimates shall be in writing. The City shall not divide a contract or purchase which exceeds \$100,000.00 for the sole purpose of avoiding these requirements.

VII. Competitive Procurements

A. Request for Informal Written Quotes (IWQ)

Requests for Informal Written Quotes (IWQ) are prepared and issued with the goal of obtaining competitive responses.

Public notice is posted on the Purchasing Agent's Internet Web Page for all Requests for an IWQ in which the value is expected to exceed \$50,000.00. Additional public notice may be provided for solicitations that, in the sole discretion of the City, are of the size, type, or dollar value that make additional public notice appropriate.

Quotations are opened by the Purchasing Agent at the location indicated and on or after the due date indicated in the Request for an IWQ. A split or partial quotation may be awarded, if a Request for an IWQ is for multiple Goods or Services, more than one Vendor provides a quotation that meets the specifications for the items, and a price comparison can be made between the items quoted. The award may be split between more than one Vendor by awarding to the lowest cost provider of each item or reasonable grouping of items if acquisition, delivery, and other requirements can be reasonably administered. A Split or Partial Quotation Award shall not be used under the following conditions:

- a) When the solicitation is for an integrated system and the split of the award between components or parts of that system would jeopardize performance; or
- b) If the item is part of a system and the performance of that system would be jeopardized if another brand was substituted.

Tie quotations are handled in the same way as tie bids.

B. Invitation for Bids

Invitation for Bids (IFB) are prepared and issued to prospective Bidders, with the goal of obtaining competitive responses in the procurement of Goods, Capital Assets, Services and Construction Services.

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Public notice (such as publication in a newspaper of general circulation or posting on the Purchasing Agent's Internet Web page) of the IFB must be given a minimum of fourteen (14) calendar days prior to the date set for bid opening, unless it can be demonstrated that an Emergency requirement for Goods Capital Assets, Services or Construction Services exists, in which instance, the requirement for public notice may be reduced by the Purchasing Agent.

Bids shall be opened publicly in the presence of the Purchasing Agent or the designee of the Purchasing Agent and at least one other witness at the time and place designated in the Invitation for Bids. All relevant information, including each Bid amount and Bidder's name, will be recorded on a summary sheet.

Split or partial bid awards may be awarded with the same guidelines and restrictions as those provided for split or partial quotation awards.

Tie Bids: In the event two or more identical bids are received, the following procedure will be used when the basis of award is low bid:

- a) To the extent permitted by law, a tie Bidder from a Person having an office within the limits of the City would be recommended to the appropriate approving authority for an award over one without an office in the City. A Person within the state of Georgia would be recommended to the appropriate approving authority for an award over one without an office in Georgia.
- b) If the procedures in (a) above does not result in an award, then, the tie Bidders will be contacted and advised of the tie and asked if they wish to reduce their bid in writing submitted in a sealed envelope to be opened at the time and place stated by the Purchasing Agent or the designee of the Purchasing Agent. If one or more of the tied Bidders agrees to participate, award will be made to the new low bid. If none of the tied Bidders agree to participate or if the new bids are tied, then City staff shall break the tie by following the procedures described below, as necessary.
- c) If the procedures in (a) and (b) above do not result in an award, then, to the extent permitted by law, a tie Bidder for Goods or Capital Assets deemed in the City's sole discretion to provide the most environmentally preferable Goods would be recommended to the appropriate approving authority for an award over one deemed environmentally inferior.
- d) If the procedures above do not result in an award, then, the Purchasing Agent or the designee of the Purchasing Agent in the presence of at least two witnesses will flip a coin one time. Award to the winner of the coin flip will be recommended to the appropriate approving authority.

Correction or withdrawal of inadvertently erroneous bids is permitted in accordance to the terms indicated within the IFB; however, minor irregularities may be waived by the City. No bid may be withdrawn for a period of ninety (90) days after the time scheduled for bid opening, or as otherwise stated in the IFB.

Late bids will be rejected and returned unopened.

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Bids will be evaluated based on the qualification factors set forth in the IFB, which may include criteria to determine acceptability of Goods or Capital Assets (for example, inspection, testing, quality, workmanship, delivery, and suitability for a particular purpose). Criteria for the acceptability of Goods or Capital Assets shall be used to determine whether particular Goods are responsive to the IFB, and not to determine the relative desirability between acceptable Goods or Capital Assets. The City reserves the right to waive any informalities or irregularities of bids, to request clarification of information submitted in any bid, to further negotiate with the Responsive and Responsible Bidder selected for Contract award, or to reject any or all bids for any reason whatsoever.

Except as otherwise provided by law, if no Responsive and Responsible Bids are received or all bids are rejected, the City may procure such Goods and Services by direct negotiation as indicated below in Non-Competitive Procurement of Goods and Services.

The Bid will be awarded, if an award is made, to the Responsible and Responsive Bidder offering the lowest price whose bid meets the requirements and criteria set forth in the Invitation for Bid. The Bid may require a Contract.

C. Request for Proposals (RFP)

When the Purchasing Agent determines the use of an Invitation for Bids is not practical or not advantageous because of existing market conditions or the type of items required, the City may procure Goods, Capital Assets, Services, or Construction Services through receipt of competitive sealed proposals. Competitive sealed proposals are solicited through the use of an RFP, with the goal of obtaining competitive responses.

Public notice of the RFP shall be given in the same manner as the procurement described in section VII, sub-section A of this policy.

Proposals shall be opened publicly by the Purchasing Agent, in the presence of one or more witnesses at the time and place designated in the RFP. A register of proposals is prepared that lists each Proposer's name. Interested persons shall have access to information regarding procurement transactions of the City in accordance with City policy and the Georgia Open Records Act, O.C.G.A. §50-18-70 et seq.

All meetings of the City's Council are duly noticed public meetings and all documents submitted to the City as a part of or in connection with a Proposal may constitute public records under Georgia law regardless of any person's claim that proprietary or trade secret information is contained therein. Unless otherwise provided herein, by submission to the City, Proposers waive any claim to the proprietary nature of submitted information. The Proposer may designate in the smallest increments possible, that part of the qualifications which is deemed to be proprietary, which, subject to the City's reasonable determination, shall be redacted for purposes of the public agenda. Proposals and all related correspondence are governed by the Georgia Open Records Act and shall be provided to anyone properly requesting same, after contract award. The City cannot protect proprietary data submitted in vendor proposals unless provided for under the open records law and clearly marked as proprietary by the Proposer. In the event the Proposer deems certain information to be exempt from the disclosure requirements, the Proposal must specify what content is considered exempt and cite the applicable provision of the law to support that assessment. In the event such information is requested under the open records law, the

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Proposer's assessment will be examined by the City Attorney who will make a determination. The decision to withhold or release the information will be at the City Attorney's sole discretion.

Correction or withdrawal of proposals is permitted in accordance with instructions contained within the RFP. No proposal may be withdrawn for a period of ninety (90) days after the time scheduled for proposal opening, or as otherwise stated in the RFP.

Late proposals will be rejected and returned unopened.

The RFP will identify the criteria to be considered and evaluated as the basis of award.

Proposals submitted by Responsible and Responsive Proposers are evaluated by Purchasing Agent or the designee of the Purchasing Agent based upon the criteria applicable to the RFP. All proposals (or the most acceptable proposals in the discretion of any committee evaluating proposals) will be ranked in order of their acceptability to the City, giving consideration to the criteria. Unless otherwise provided by law, the City has no obligation to award the Contract to the Proposer who proposes the lowest price.

The City reserves the right to waive any informalities or irregularities of proposals, to request clarification of information submitted in any proposal, to further negotiate with a Responsive and Responsible Proposer who has been selected for Contract award, or to reject any or all proposals for any reason whatsoever.

The Contract award will be awarded, if award is made, by the City to the Responsive and Responsible Proposer whose proposal is determined, in the City's exclusive discretion, to be the most advantageous to the City, taking into consideration price, qualifications, and other factors as indicated in the RFP. The RFP will contain the basis on which the award is to be made.

If no Responsive and Responsible proposals are received or all proposals are rejected, the City may procure such Goods, Capital Assets, Services, and Construction Services by Direct Negotiation as indicated below in Non-Competitive Procurement of Goods and Services, except as otherwise provided by law.

D. Request for Qualifications

Requests for Qualifications (RFQ) may be used when it is determined to be in the City's best interest to evaluate the experience and qualifications of a Service, Construction Service or Professional Service provider, without regard to price or prior to considering price.

The procedure for soliciting, opening and evaluating statements of qualifications shall be the same as described herein for competitive sealed proposals. Such service providers whose qualifications meet the criteria established in the RFQ, at the sole discretion of the City, may be considered for Contract award by participation in the completion price negotiation. The City shall attempt to negotiate a fee with the highest ranked firm. If no agreement is reached, the City shall begin negotiations with the next highest ranked firm. Negotiations will proceed in this manner until an agreement is reached. Alternatively, the Purchasing Agent or designee may, by Direct Negotiation, finalize terms with service providers who are selected for award based on qualifications. The City reserves the right to reject any or all responses for any reason. Clarification of information may be requested by the City.

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E. Invitation to Negotiate

An Invitation to Negotiate (ITN) may be used when the City determines it is in its best interest to commence negotiation of price and other factors prior to recommendation of award, and it is approved by the City Manager. An ITN may be used for Goods, Capital Assets, Services, Construction Services or Professional Services when the scope of work is complex or difficult to define, if strict comparison of Goods, Capital Assets, Services, Construction Services or Professional Services required may be difficult because components are likely to vary among Proposers, or in any situation in which it is in the City's best interest to negotiate prior to recommendation of award to obtain the product that best meets the City's needs, price and other factors being considered.

The procedure for soliciting and opening initial responses to an ITN shall be the same as described herein for competitive, sealed proposals.

The ITN will identify the criteria to be considered during the evaluation of proposals.

All Responsive and Responsible proposals submitted are evaluated based upon the criteria applicable to the ITN. Clarification of information submitted in the proposal may be requested. The City reserves the right to waive any informalities or irregularities of proposals, to request additional information from any Proposer, or to reject any or all responses for any reason whatsoever.

The City may, at its sole discretion, shortlist firms that are deemed to best meet the City's requirements, taking into consideration all criteria listed in the ITN, including price. The City may, at its sole discretion, ask for formal presentations from all of the Responsive and Responsible Proposers, or only from those firms that are Short-listed, if Short-listing is determined to be in the best interest of the City. Negotiations will be conducted and may take place in person or via telephonic with all of the Proposers or, if Short-listing occurs, with all of the Short-listed Proposers. Proposers that participate in the negotiations may be given an opportunity to submit their best and final offers.

The Contract Award will be awarded, if an award is made, by the City to the Responsive and Responsible Proposer whose proposal is determined to be the most advantageous to the City, taking into consideration price and other factors as indicated in the ITN. The City has no obligation to award the Contract to the Proposer that submits the lowest price; though justification should be documented.

F. Multi-step Solicitation

The City may initiate one of the multi-step solicitation processes described below when: (a) in the City's discretion, it is impractical to prepare an adequate or complete description of the Goods, Capital Assets, Services or Construction Services desired (due to insufficient data, uncertain requirements, unfamiliar market options, etc.), (b) the City desires to identify a field of qualified Bidders, Proposers, Goods or Services, out of a broader field of Bidders, Proposers, Goods or Services, or (c) the City believes a multi-step process would best serve its purposes.

1. Consecutive Multi-Step Process:

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- a) The City may request unpriced proposals or statements of qualifications to be evaluated based on the criteria in the RFP or the RFQ for purposes of identifying one or more desirable or acceptable Goods, Capital Assets, Services, or Construction Services or for purposes of identifying a field of at least three (if possible and available) qualified or most qualified Bidders or Proposers. The City may request demonstrations, samples, or may conduct interviews with Proposers to aid in the identification of desirable or acceptable Goods, Services, or Professional Services or in the identification of qualified or most qualified Bidders or Proposers. In the event the City requests demonstrations or samples, the City is not required to seek or permit demonstrations or samples of Goods or Services deemed by the City to be less desirable or acceptable than other Goods or Services for which proposals or statements of qualifications were received. In the event the City conducts interviews with Proposers, the City is not required to interview any Proposer deemed by the City to be unqualified or less qualified than other Proposers.
- b) After identifying a field of most qualified Bidders or Proposers with the capability of providing the desirable or acceptable Goods, Services, or Professional Services, the City may either follow a Competitive Award solicitation process among the field of Vendors identified as having the capability to meet the City's requirements for the procurement or by direct negotiation as indicated below in Non-Competitive Procurement of Goods and Services.

2. Simultaneous Multi-Step Process:

- a) The City may request that priced proposals be submitted in two separate envelopes, with pricing information contained in one envelope and all other requested information contained in the other envelope. In such case, proposals will be evaluated in accordance with the requirements set forth in the RFP, initially without regard to price and without opening the envelope containing pricing information. Based on such evaluation, the City will establish a field of at least three (if possible and available) qualified or most qualified Proposers. The City may conduct interviews with Proposers to aid in the identification of qualified or most qualified Proposers. In the event the City conducts interviews with Proposers, the City is not required to interview any Proposers deemed by the City to be unqualified or less qualified than other Proposers.
- b) After establishing a field of qualified or most qualified Proposers, the City will open the pricing envelopes of only the qualified or most qualified Proposers, and evaluate such pricing information in the manner described in the RFP for purposes of recommending/making an award (e.g. most advantageous proposal, price and other factors considered or low price submitted by qualified Proposers). In the absence of specific instructions to the contrary in the RFP, pricing information will be evaluated together with all other information required by the RFP for purposes of selecting among the qualified field of Proposers the most advantageous proposal, price and other factors considered.

3. Multi-Step Process to Award Continuing Purchasing Contracts

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- a) When it is in the best interest of the City to have pre-qualified, Continuing Purchasing Contracts because of the need to Provide quick-response, repetitive Services or a range of Services or Professional Services within a specific field of expertise, the City may use either a Consecutive or a Simultaneous Multi-Step Procurement Process to identify one or more Continuing Contractors. The purpose is to identify one or more Pre-Qualified and Approved Contractors that demonstrate the ability to perform a particular type of Service during a specified Contract period.
- b) Contract award - The multi-step solicitation shall specify the general types of Services required, the selection process to be used, and the selection criteria for award of the Pre-Qualified and Approved Contract(s).
- c) Award of a specific scope of work to a Pre-Qualified and Approved Contractor - During the term of the Continuing Contract(s), specific scopes of work may be developed and awarded to Pre-Qualified and Approved Contractor(s), by Amendment to such Continuing Contract(s), which shall be subject to approval by City Manager or City Council as a new contract, provided that the specific scope of work is consistent with the general types of Services upon which award of the Continuing Contract(s) was made.
- d) When there is more than one Pre-Qualified and Approved Contractor available to perform the specific scope of work defined, the process for award of the work is set forth below:
 - i. Work may be rotated during the Contract period between the Pre-Qualified and Approved Contractor(s) that were selected to perform the general type of Services required in the reasonable discretion of the director of the User department; or,
 - ii. Award may be made to the Pre-Qualified and Approved Contractor that is deemed, based on its original proposal, to be most advantageous to the City for the specific scope of work required, price and other factors being considered and without regard to rotation among selected contractors; or,
 - iii. Quotations, Bids or proposals may be requested from the Pre-Qualified and Approved Contractor(s) that were selected to perform the general type of Services or Professional Services required. The City may select the Contractor whose quotation, bid, or proposal is deemed to be most advantageous to the City to perform the specific scope of work required.

G. Online Reverse Auction

The City reserves the right to utilize this procurement method when advantageous. The process will be specified in the Solicitation Documents.

H. Performance Guarantee

A Bid/ Proposal Bond or Performance Bond may be required for any solicitation.

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I. Approval of Awards and Recommendations

Prior to the consummation of the purchase by the City of Goods, Services, or Professional Services, such purchase shall be approved by a person having approval authority over such purchase.

J. Forms

The Purchasing Agent shall provide and update all forms to procure Goods, Services, and Professional Services, as needed.

VIII. **Non-Competitive Procurements**

The provisions of this policy section shall apply to the procurement of Goods, Capital Assets, Services, Construction Services or Professional Services, when competitive procurement is not practical, feasible, possible or desirable. Notwithstanding any other provision, any Contract or subcontract entered into by the City with any Person for the construction, reconstruction, or maintenance of all or part of a public road in the City, including but not limited to a Contract or subcontract for the purchase of materials, for the hiring of labor, for professional services, or for other things or services incident to such work, shall be entered into in accordance with O.C.G.A. § 32-4-114.

A. Sole Source Procurement

The City may acquire Goods, Capital Assets, Services, Construction Services or Professional Services pursuant to a Sole Source Procurement. Sole Source Procurement is available when Goods, Services, or Professional Services are limited to one source, or when they must be obtained from a specific manufacturers' dealer and valid competition among dealers does not exist. The User must provide the justification for the Sole Source Procurement to the Purchasing Agent after approved by the City Manager or Council.

B. Single Source Procurement

The City may acquire Goods, Capital Assets, Services, Construction and Professional Services pursuant to a Single Source Procurement. A Single Source Procurement is a procurement made from one Person among others in a competitive market place which, for justifiable reasons, is found to be most advantageous for the purpose of fulfilling the given purchasing need. The User must provide the justification for the Single Source Procurement to the Purchasing Agent after approval by the City Manager or City Council. The Purchasing Agent may elect to purchase particular brand name Goods or Services when the Goods or Services comprise a major brand system, program or service previously selected by the City and due to operational effectiveness, future enhancements or additions, or maintenance or storage of spare parts precludes the mixing of brands, manufacture, etc.

C. Direct Negotiation

Following the completion of a Competitive Award solicitation process above that fails to produce a responsible or responsive Bidder or Proposer, fails to produce a qualified respondent, or for which all submissions were rejected for any reason, the City may procure the Goods, Capital Assets, Services, Construction Services or Professional Services that were the subject of such failed solicitation by Direct Negotiation with any provider of such Goods or Services when

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issuing a revised solicitation is not recommended by the City Manager with concurrence from legal counsel.

Direct Negotiation will be completed by the Purchasing Agent, assisted as needed by the User and legal counsel.

D. Emergency Procurement

The City may acquire Goods, Capital Assets, Services, Construction Services or Professional Services by directly negotiating an award in the event of an Emergency. The City Manager shall make the determination when an Emergency exists. Such emergency procurements shall be made with as much competition as is practicable under the circumstances.

A written basis for declaring the Emergency and for the selection of the particular Person for the provision of Goods, Capital Assets, Services, Construction Services or Professional Services shall be included in the Contract file. As soon as practicable, a record of each Emergency procurement shall be made and shall set forth the contractor's name, the amount and type of the Contract, a listing of the item procured under the Contract, and the identification number of the Contract file.

If an Emergency situation should arise after office hours which requires immediate action on the part of the agency involved for the protection of the best interest of the City or if a like situation arises on a weekend or holiday and when it is not possible or convenient to reach the City Manager or Purchasing Agent, any purchase necessary shall be made by the official in charge of such department or agency, and such purchase reported to the Purchasing Agent within 24 hours.

E. Costs Under the Competitive Threshold

The Purchasing Agent with the consent of the City Manager, where applicable, may acquire Goods, Capital Assets, Construction Services and Professional Services appropriated by the City Council in the City budget or otherwise by Direct Negotiation or by some other non-competitive method, when the dollar value of the purchase does not exceed \$25,000.00 and a properly executed and authorized Requisition is received. Under this non-competitive method, the Purchasing Agent shall attempt to obtain the Goods, Capital Assets, Services, Construction or Professional Services most advantageous to the City, price and other factors considered. For Goods and Services under the competitive threshold but over \$5,000.00, the Purchasing Agent or User shall obtain, where possible, at least three quotes using the IWQ method as outlined in Section VII (A).

The User may acquire by Requisition Goods, Services, Construction Services and Professional Services appropriated by the City Council in the City budget or otherwise by Direct Negotiation or by some other non-competitive method, when the dollar value of the purchase does not exceed \$5,000.00. Under this non-competitive method, the User shall attempt to obtain the Goods, Capital Assets, Services, Construction or Professional Services most advantageous to the City, price and other factors considered.

F. Direct Negotiation and Other Public Entities and Co-ops

The City may acquire Goods, Capital Assets and Services by Direct Negotiation or other method involving limited or no competition from a Supplier having a requirements Contract/Annual Agreement with any public entity (e.g., federal, state, county, city, authority, school board,

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Buying Cooperative, etc.) for Goods, Capital Assets or Services described in such contract and at prices or discounts no less favorable than any set forth in such Contracts.

Use of State/Co-Op Contracts: The Purchasing Agent may, independent of the requirements of bid process of this article, procure supplies, services or construction items through the Contract established through competitive means by the purchasing division of the State of Georgia, national Co-Ops (i.e.-U.S. Communities), and collaborative purchasing agreements with other local governments when deemed to be in the best interest of the City.

G. Real Estate Acquisition

1. Compliance with Applicable Regulations

All real estate acquisition activities shall conform to applicable federal, state (*e.g.* O.C.G.A § 36-80-18 and O.C.G.A § 36-60-13) and local laws and regulations and shall be subject to the provisions of the City Code of Ethics.

2. Confidentiality

The City Council and City staff shall maintain the confidentiality of potential and on-going real estate acquisitions and related information subject to the provisions of the Open Meetings and Open Records Acts.

3. Formal Approval

All real estate transactions shall be formally approved by the City Council in a public meeting prior to the City entering a sales contract. This shall not prohibit or interfere with the City Council's ability to discuss same and negotiate terms in Executive Session subject to the requirements of the Open Meeting and Open Records Acts.

4. Appraisals

For any piece of real estate, for which a sales contract has been signed, the City will conduct at least one appraisal by an independent third-party who holds the Member of the Appraisal Institute (MAI) membership designation.

5. Land Acquisition Procurement Process

- a. City staff will investigate and identify properties for purchase that generally meet an approved plan or strategy. Furthermore, land purchased with a specific funding source will only be used for such purposes anticipated and/or authorized. If the City determines that the land cannot be used for its intended purpose, the City may dispose of the property in a manner consistent with Georgia law and funds raised through the sale of the property will be used for future land purchases consistent with the purposes authorized.
- b. City staff will work with a Real Estate broker to gather information and make site visits related to properties under consideration for acquisition.

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- c. City staff will regularly brief the City Council in Executive Session on properties the city is considering purchasing to receive direction on “terms and price” from the City Council.
- d. City staff will negotiate for “Letters of Intent” with land owners on properties the City Council has provided staff with direction on “terms and price”.
- e. City staff will present the “Letter of Intent” at a public meeting, and at that time request a Resolution from the City Council authorizing the City Manager to execute a sales contract to purchase the real estate or to execute an agreement to lease the real estate using the Letter of Intent as the guidelines for a contract. (PUBLIC HEARING REQUIRED in the case of the purchase of real estate)
- f. City staff will make the “Letter of Intent” public on the city website and through a press release within 48 hours of the city receiving a fully executed copy of the “Letter of Intent.”
- g. City staff will publish the executed sales contract or lease on the city website.
- h. City staff will conduct due diligence on the real estate to be purchased including at a minimum but not limited to:
 - i. Environmental testing (Phase I required, Phase II and specialized testing if warranted);
 - ii. Production of an ALTA survey of the property;
 - iii. Production of a MAI appraisal of the property;
 - iv. Complete title work on the property; and
 - v. Other reasonable due diligence activities as warranted.
- i. City staff will present the findings of the due diligence on the property to be purchased at a public meeting and request a Resolution from the City Council authorizing the City Manager to execute any and all closing documents to complete the purchase of the property. (PUBLIC HEARING REQUIRED)

IX. General Procedures and Approval Authorizations

- A. Periodically, the City may be given private/public grants and donations from sources such as the State and Federal Government and private corporations. These types of solicitations are more restrictive and may dictate the procurement process and methodology that the City is to follow for an award. Both federal and state procurement supersedes the purchasing requirements of the City when buying goods and services using federal or state grant monies. Departments should refer to the Federal Acquisition Regulations for guidance on specific federal procurement policies.
- B. All negotiations of agreements for Goods and Services shall be conducted by the Purchasing Agent. It is recognized that special situations may exist where there is a special need for the User to be involved in the negotiation process. This must be in conjunction with the

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Purchasing Agent at all times. The Purchasing Agent will make final recommendation for agreements.

- C. It is the responsibility of the Purchasing Agent to secure all necessary approvals of the City Manager or its designee, and the City Council prior to execution of a Contract or purchase agreement.
- D. Procurement by leasing, long-term financing, advance payments or deposits or any other special non-routine method must be approved in advance by the City Council.
- E. In the case of Contracts (other than routine purchase orders), leases or service agreements (either new or renewals), the approval process is necessary. All such documents will be forwarded to the Purchasing Agent. The Purchasing Agent will acquire the necessary approvals prior to execution of any agreement, Contract or lease through the City Attorney's office. When said Contracts, leases or service agreements are up for renewal or expiration the Purchasing Agent will notify the User for approval to either maintain the Contract or bid a new Contract. The Purchasing Agent will be responsible for maintaining a file of all current Contracts, leases or service agreements.
- F. The Purchasing Agent will review the Contract for form, completeness, insurance considerations, legal implications, and any other items dictated by each situation. The Contract will then be sent to the User and approved by the Department Director and returned to Purchasing. The Purchasing Agent will be responsible for having the Contract signed by the City Manager or their designee after it is signed by the Vendor.
- G. Once the Contract is officially executed, the original of the Contract will be filed in the City Clerk's office.
- H. Once a Contract is awarded by the City, the Contract may be amended, without the necessity of rebidding such Contract, provided the original Contract amount and the scope of the Contract is not substantially altered. The Purchasing Agent will review all change orders. Change orders will be processed to correct the account distribution, quantity, addition/deletion of line items, change in description and unit price. If a quoted price of the change order is less than \$5,000.00, and 5% of the contract amount, the requisition will be processed pursuant to the requirements of Section V(A)(12) of this Purchasing Policy. Any requisitions with a change order of \$5,000.00, or 5% of the contract amount, or more shall require City Council approval. The Purchasing Agent cannot use the change order process to circumvent the Purchasing Policy. Change orders cannot substantially change the scope of the Contract.
- I. The Purchasing Agent and the User share the responsibility to ensure the quality, delivery and payment of required Goods and Services.
- J. Final adjudication of any dispute between the Vendor and User shall be made by the Purchasing Agent with appropriate input from the User.
- K. In most cases, contact with Vendors regarding the Contract will be by the Purchasing Agent and in conjunction with the User as necessary. All Vendors must coordinate with the Purchasing Agent before visiting any other City department regarding the Contract. All visits regarding the Contract must be made with the knowledge of the Purchasing Agent and the

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Purchasing Agent has the option of accompanying the visitor. It is recognized that this restriction on visitation will not necessarily apply to those Vendors with ongoing relationships such as computer and copy machine service technicians.

- L. All returns of Goods or Capital Assets must be initiated by the User through the Purchasing Agent. Additionally, all Amendments or cancellation to any agreements must be made by the Purchasing Agent.
- M. It shall be the responsibility of the User to ensure that purchased Goods and Capital Assets are received, inspected and verified as to condition. Since the department head signed the purchase requisition, that person cannot be the receiver of the Goods and must appoint an individual within the department to be the receiver of the Goods and Services.
- N. Protests
 - a) Right to protest. Any Person who is aggrieved in connection with the solicitation or award of a Contract may protest to the City. Protestors shall seek resolution of their complaints initially with the City Manager. All protests must be submitted in writing to the City Manager within three (3) business days of award of the contract. The complaint shall specify the alleged act or omission by the City that provides the basis for the complaint.
 - b) Upon the filing of a written complaint, the City Manager, within three (3) business days, shall request a response from the Purchasing Agent. The Purchasing Agent's response will be returned to the City Manager within seven (7) calendar days. Failure by the Purchasing Agent to file a response may be considered as evidence by the City Manager of admission of wrong doing on the part of the Purchasing Agent. If requested by either party, the City Manager, or designee shall have a hearing on the complaint within fourteen (14) calendar days of filing the complaint to decide the merits of the claim. The City Manager is empowered to decide to uphold, dismiss or amend the decision of the Purchasing Agent. The City Council shall approve or reject the City Manager's decision. If the party bringing the complaint disagrees with the conclusions of the City Manager and City Council, the decision may be appealed by filing a writ of certiorari to the Superior Court of DeKalb County within thirty (30) days of the decision of the City Council.
 - c) Protests concerning invitations. A protest with respect to an IFB, ITN, RFQ, or RFP shall be submitted in writing prior to the opening of bids or the closing date of proposals. If not done by that time, the complaint or protest is invalid.
 - d) Stay of procurement during protests. In the event of a timely protest under subsection (b) of this Section, the Purchasing Agent shall not proceed further with the solicitation or award of the Contract until all administrative remedies have been exhausted or until the City Manager or City Attorney makes a determination that the award of the Contract without delay is necessary to protect the interests of City.
- O. Credit Cards shall only be issued upon approval of both of the department head and the City Manager. The Credit limit for each card shall be established by the Director of Finance. All individuals assigned a Credit Card on behalf of the City shall be personally responsible for its

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use and any fraudulent use. The City Manager shall maintain a Procurement Card Procedure Manual. This manual shall be on file with the City Clerk and made available for all users.

X. Property Disposal

A. Excess, Surplus, and Obsolete Materials

It shall be the duty of the User to report all excess, surplus or obsolete materials to the Purchasing Agent. At this point, the Purchasing Agent will examine alternatives as to the most advantageous disposition of the items. Items could be refurbished or reconditioned, transferred, traded in on new equipment or sold by auction or sealed bid, or destroyed. For property over \$5,000 in aggregate or \$1,000 individually, the City Council shall approve the request to have the property declared surplus. For other property, the Purchasing Agent shall present a list to the City Manager for approval.

1. Transfer or Re-use: The most gainful method for handling an item no longer needed by a department is to transfer it to another department that has a use for the item.
2. Trade-In: In replacing obsolete equipment, it may be financially advantageous to trade-in the old equipment. The invitation for bids on the replacement item should call for bid prices with or without trade-in and provide that award may be made either way.
3. Sale: Excess, surplus and obsolete items not transferred or traded-in may be consolidated and offered for sale by auction or by sealed bid method. Auctions can be traditional or contemporary including online auctions such as www.Govdeals.com or similar websites. The consolidated list will be submitted to City Council for approval before an auction or sealed bid is organized. The property offered for sale will be on an "AS IS/WHERE IS" basis. The sale will be given public notice. Sealed bids will be opened at the time and place announced with the City, retaining the right to reject any and all.

B. Sale to Employees

To avoid any appearance of impropriety in the disposition program, it will be the City's policy to prohibit the direct sale of surplus property to any City Employee, Official or Agent. This policy does not prohibit any City Employee, Official or Agent from extending an offer at a public auction or in the form of a sealed bid.

C. Allocation of Proceeds

Proceeds from the sale of excess or surplus property will go into the City's Fund that held the asset.

XI. Projects Using Federal Aid Highway Program (FAHP) Funding

Except as provided in Sections F and G below, the City shall use the competitive negotiation method for the procurement of engineering and design related services when FAHP funds are involved in the contract (as specified in 23 U.S.C. 112(b)(2)(A) and 23 CFR 172.5(a)(1)). The solicitation,

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evaluation, ranking, selection, and negotiation shall comply with the qualifications-based selection procurement procedures for architectural and engineering services codified under 40 U.S.C. 1101–1104, commonly referred to as the Brooks Act.

In accordance with the requirements of the Brooks Act, the following procedures shall apply to the competitive negotiation procurement method:

A. Solicitation.

The solicitation process shall be by public announcement, public advertisement, or any other public forum or method that assures qualified in-State and out-of-State consultants are given a fair opportunity to be considered for award of the contract. Procurement procedures may involve a single step process with issuance of a request for proposal (RFP) to all interested consultants or a multiphase process with issuance of a request for statements or letters of interest or qualifications (RFQ) whereby responding consultants are ranked based on qualifications and request for proposals are then provided to three or more of the most highly qualified consultants. Minimum qualifications of consultants to perform services under general work categories or areas of expertise may also be assessed through a prequalification process whereby statements of qualifications are submitted on an annual basis. Regardless of any process utilized for prequalification of consultants or for an initial assessment of a consultant's qualifications under an RFQ, a RFP specific to the project, task, or service is required for evaluation of a consultant's specific technical approach and qualifications.

B. Request for Proposal (RFP).

The RFP shall provide all information and requirements necessary for interested consultants to provide a response to the RFP and compete for the solicited services. The RFP shall:

- a) Provide a clear, accurate, and detailed description of the scope of work, technical requirements, and qualifications of consultants necessary for the services to be rendered. The scope of work should detail the purpose and description of the project, services to be performed, deliverables to be provided, estimated schedule for performance of the work, and applicable standards, specifications, and policies;
- b) Identify the requirements for any discussions that may be conducted with three (3) or more of the most highly qualified consultants following submission and evaluation of proposals;
- c) Identify evaluation factors including their relative weight of importance in accordance with Sections C and D;
- d) Specify the contract type and method(s) of payment to be utilized;
- e) Identify any special provisions or contract requirements associated with the solicited services;

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- f) Require that submission of any requested cost proposals or elements of cost be in a concealed format and separate from technical/qualifications proposals as these shall not be considered in the evaluation, ranking, and selection phase; and
- g) Provide a schedule of key dates for the procurement process and establish a submittal deadline for responses to the RFP which provides sufficient time for interested consultants to receive notice, prepare, and submit a proposal, which except in unusual circumstances shall be not less than 14 days from the date of issuance of the RFP.

C. Evaluation Factors.

Criteria used for evaluation, ranking, and selection of consultants to perform engineering and design related services must assess the demonstrated competence and qualifications for the type of professional services solicited. These qualifications-based factors may include, but are not limited to, technical approach (e.g., project understanding, innovative concepts or alternatives, quality control procedures), work experience, specialized expertise, professional licensure, staff capabilities, workload capacity, and past performance.

Price shall not be used as a factor in the evaluation, ranking, and selection phase. All price or cost related items which include, but are not limited to, cost proposals, direct salaries/wage rates, indirect cost rates, and other direct costs are prohibited from being used as evaluation criteria.

In-State or local preference shall not be used as a factor in the evaluation, ranking, and selection phase. State licensing laws are not preempted by this provision and professional licensure within a jurisdiction may be established as a requirement which attests to the minimum qualifications and competence of a consultant to perform the solicited services.

The following non-qualifications based evaluation criteria are permitted under the specified conditions and provided the combined total of these criteria do not exceed a nominal value of ten percent of the total evaluation criteria to maintain the integrity of a qualifications-based selection:

- (a) A local presence may be used as a nominal evaluation factor where appropriate. This criterion shall not be based on political or jurisdictional boundaries and may be applied on a project-by-project basis for contracts where a need has been established for a consultant to provide a local presence, a local presence will add value to the quality and efficiency of the project, and application of this criteria leaves an appropriate number of qualified consultants, given the nature and size of the project. If a consultant outside of the locality area indicates as part of a proposal that it will satisfy the criteria in some manner, such as establishing a local project office, that commitment shall be considered to have satisfied the local presence criteria.
- (b) The participation of qualified and certified Disadvantaged Business Enterprise (DBE) sub-consultants may be used as a nominal evaluation criterion where appropriate in accordance with 49 CFR Part 26.

D. Evaluation, Ranking, and Selection.

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- a) Consultant proposals shall be evaluated by the City based on the criteria established and published within the public solicitation.
- b) While the contract will be with the prime consultant, proposal evaluations shall consider the qualifications of the prime consultant and any sub-consultants identified within the proposal with respect to the scope of work and established criteria.
- c) Following submission and evaluation of proposals, the City shall conduct interviews or other types of discussions determined three of the most highly qualified consultants to clarify the technical approach, qualifications, and capabilities provided in response to the RFP. Discussions may be written, by telephone, video conference, or by oral presentation/interview. Discussions following proposal submission are not required provided proposals contain sufficient information for evaluation of technical approach and qualifications to perform the specific project, task, or service with respect to established criteria.
- d) From the proposal evaluation and any subsequent discussions which have been conducted, the City shall rank, in order of preference, at least three consultants determined most highly qualified to perform the solicited services based on the established and published criteria.
- e) Notification must be provided to responding consultants of the final ranking of the three most highly qualified consultants.
- f) The City shall retain acceptable documentation of the solicitation, proposal, evaluation, and selection of the consultant accordance with the provisions of 49 CFR 18.42.

E. Negotiation.

- a) Independent estimate. Prior to receipt or review of the most highly qualified consultant's cost proposal, the City shall prepare a detailed independent estimate with an appropriate breakdown of the work or labor hours, types or classifications of labor required, other direct costs, and consultant's fixed fee for the defined scope of work. The independent estimate shall serve as the basis for negotiation and ensuring the consultant services are obtained at a fair and reasonable cost.
- b) If concealed cost proposals were submitted in conjunction with technical/qualifications proposals, only the cost proposal of the consultant with which negotiations are initiated may be considered. Concealed cost proposals of consultants with which negotiations are not initiated should be returned to the respective consultant due to the confidential nature of this data (as specified in 23 U.S.C. 112(b)(2)(E)).
- d) The City shall retain documentation of negotiation activities and resources used in the analysis of costs to establish elements of the contract in accordance with the provisions of 49 CFR 18.42.

F. Small Purchases.

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The small purchase method involves procurement of engineering and design related services where an adequate number of qualified sources are reviewed and the total contract costs do not exceed an established simplified acquisition threshold. The City may use the State's small purchase procedures which reflect applicable State laws and regulations for the procurement of engineering and design related services provided the total contract costs do not exceed the Federal simplified acquisition threshold (as specified in 48 CFR 2.101). When a lower threshold for use of small purchase procedures is established in State law, regulation, or policy, the lower threshold shall apply to the use of FAHP funds as allowed by Federal law. The following additional requirements shall apply to the small purchase procurement method:

- a) The scope of work, project phases, and contract requirements shall not be broken down into smaller components merely to permit the use of small purchase procedures.
- b) A minimum of three consultants are required to satisfy the adequate number of qualified sources reviewed.
- c) Contract costs may be negotiated in accordance with State small purchase procedures; however, the allow ability of costs shall be determined in accordance with the Federal cost principles.
- d) The full amount of any contract modification or amendment that would cause the total contract amount to exceed the established simplified acquisition threshold would be ineligible for Federal-aid funding. The FHWA may withdraw all Federal-aid from a contract if it is modified or amended above the applicable established simplified acquisition threshold.

G. Noncompetitive.

The noncompetitive method involves procurement of engineering and design related services when it is not feasible to award the contract using competitive negotiation or small purchase procurement methods. The following requirements shall apply to the noncompetitive procurement method:

- a) The City may use their own noncompetitive procedures which reflect applicable State and local laws and regulations and conform to applicable Federal requirements.
- b) The City shall establish a process to determine when noncompetitive procedures will be used and shall submit justification to, and receive approval from, the FHWA before using this form of contracting.
- c) Circumstances under which a contract may be awarded by noncompetitive procedures are limited to the following:
 - (1) The service is available only from a single source;
 - (2) There is an emergency which will not permit the time necessary to conduct competitive negotiations; or
 - (3) After solicitation of a number of sources, competition is determined to be inadequate.

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d) Contract costs may be negotiated in accordance with the City noncompetitive procedures; however, the allow ability of costs shall be determined in accordance with the Federal cost principles.

H. Additional Procurement Requirements.

(1) Common Grant Rule.

(I.) The City must comply with procurement requirements established in State and local laws, regulations, policies, and procedures which are not addressed by or in conflict with applicable Federal laws and regulations (as specified in 49 CFR 18.36).

(II.) When State and local procurement laws, regulations, policies, or procedures are in conflict with applicable Federal laws and regulations, the City must comply with Federal requirements to be eligible for Federal-aid reimbursement of the associated costs of the services incurred following FHWA authorization (as specified in 49 CFR 18.4).

(2) Disadvantaged Business Enterprise (DBE) program.

(I.) The City shall give consideration to DBE consultants in the procurement of engineering and design related service contracts subject to 23 U.S.C. 112(b)(2) in accordance with 49 CFR part 26. When DBE program participation goals cannot be met through race-neutral measures, additional DBE participation on engineering and design related services contracts may be achieved in accordance with the City's FHWA approved DBE program through either:

(A) Use of an evaluation criterion in the qualifications-based selection of consultants; or

(B) Establishment of a contract participation goal.

(II.) The use of quotas or exclusive set-asides for DBE consultants is prohibited (as specified in 49 CFR 26.43).

(3) Suspension and Debarment.

The City must verify suspension and debarment actions and eligibility status of consultants and sub-consultants prior to entering into an agreement or contract in accordance with 49 CFR 18.35 and 2 CFR part 180.

XII. Purchasing Card Policy

The Purchasing Agent shall administer the use of city purchasing cards in compliance with the Purchasing Card Policy which is attached as Exhibit “___” hereto and incorporated herein by

Purchasing Policy

reference. The use of all city issued purchasing cards shall be governed by the Purchasing Card Policy.

Purchasing Policy

EXHIBIT “____”

PURCHASING CARD POLICY

[attached]

Purchasing Policy

Purchasing Card Policy

A. Authority

The Georgia General Assembly established guidelines and penalties into the Official Code of Georgia Annotated ("O.C.G.A.") which provides that no municipal corporation shall issue government purchasing cards or government credit cards to elected officials on or after January 1, 2016, until the governing authority of the municipal corporation, by public vote, has authorized the issuance and has promulgated specific policies regarding the use of such government purchasing cards or government credit cards for elected officials of such municipal corporation.

B. Purpose

The purpose of this policy is to set requirements and standards for the City of Stonecrest, Georgia Purchasing Card Program. The policy is not intended to replace current State of Georgia statutes but is intended to comply with such state laws and establish more efficient guidelines for elected officials using such purchasing cards. At no time should a city issued purchasing card or credit card be used for personal purchases regardless of the circumstances. Utilizing the purchasing card or credit card for personal use or for any item or service not directly related to such official's public duty may result in disciplinary action including, but not limited to, felony criminal prosecution. All purchases utilizing a government purchasing card or government credit card must be in accordance with these guidelines and with state law.

C. Scope

This purchasing card policy, as required by state law under O.C.G.A. § 36-80-24(c), applies to the use of government purchasing cards or government credit cards used by elected officials authorized to be issued such government purchasing cards or government credit cards. The below list of officials have been authorized by the governing authority of the City to use such government purchasing cards or government credit cards and must abide by all of the applicable state laws and this purchasing card policy.

1. Mayor
2. City Councilmembers
3. City Manager
4. City Chief Financial Officer

D. Public Inspection

In accordance with O.C.G.A. § 36-80-24(c) any documents related to purchases using government purchasing cards or government credit cards incurred by elected officials shall be available for public inspection.

E. Transaction Limits

Purchasing Policy

Transaction limits are hereby established to insure compliance with state purchasing laws, maintain proper budgetary controls, and to minimize excessive use of any individual credit line. Individual monthly card limits cannot exceed those established by the municipal governing authority. The established single transaction limit for each card must be less than \$1,000.00. The established monthly card limit is based upon the city's budgetary constraints and is not to exceed \$5,000.00 per month. Any exceptions to the standardized limits must have express written approval by the municipal governing authority and must be added to this policy by amendment or addendum.

F. Purchasing Restrictions

1. Elected Officials may not use a government purchasing card or government credit card for the following:
 - a. Any purchases of items for personal use.
 - b. Cash refunds or advances.
 - c. Any transaction amount greater than the transaction limits set for by this policy.
 - d. Items specifically restricted by this policy, unless a special exemption is granted by the municipal governing authority.
 - e. Alcohol or liquor of any kind. Such purchases should not be made with the purchasing card and may not be reimbursed by the city.
 - f. Purchases or transactions made with the intent to circumvent the city purchasing policy, transactional limits, or state law.
2. Elected Officials may use government purchasing cards or government credit cards to purchase goods and/or services not prohibited by this policy or state law. Such purchases include, but are not limited to:
 - a. Purchases of items for official city use which fall within the transactional restrictions of this policy.
 - b. Purchase of lodging, fuel, food, non-alcoholic beverages, or education and training materials while on city business.
 - c. Emergency purchases necessary to protect city property.

G. Administrator

The city designates the City Manager as the program administrator of government purchasing cards or government credit cards. Such administrator shall:

1. Serve as a liaison between the city's cardholders and the issuers of such cards.
2. Maintain the cardholder agreement for all cardholders.
3. Provide instruction, training, and assistance to cardholders
4. Maintain account information and secure all cardholder information.
5. Keep cardholders up-to-date on new or changing information

Purchasing Policy

6. Upon receipt of information indicating fraudulent use or lost/stolen cards immediately report it to appropriate parties, including the issuer.
7. Ensure all card accounts are being utilized properly as set forth by state law and this policy.
8. Define the city's policy and procedures for proper documentation and storage of receipts, logs, and approvals required under this policy.
9. Identify any changes to named persons authorized to use a government purchasing card or government credit card.
10. Any other duties assigned by the municipal governing authority.

H. Accounting and Auditing

The Administrator, in an effort to ensure compliance with city policy and state law, will conduct monthly and/or quarterly reviews and audits of all government purchasing card or government credit card transactions. The review is designed to ensure compliance, identify non-compliance issues and misuse, and through corrective measures assist the city with improving compliance. The monthly and/or quarterly review and audit should happen within ____ days of the start of a new month or quarter. After completing the monthly/quarterly audit the Administrator shall notify cardholders of any violations or questions the Administrator has that occurred within that previous month/quarter. Depending on the severity of the violation, the Administrator may suspend or revoke the use of the government purchasing card or government credit card after notification to the cardholder and to the municipal governing authority, but only after consultation with the city attorney. Any unresolved violations should be reported to the municipal governing authority and the city attorney in writing within ____ business days.

I. Violations

The use of a government purchasing card or government credit card may be suspended or revoked when the Administrator, after consultation with the city attorney, determines that the cardholder has violated the approved policies or state law regarding the use of the government purchasing card or government credit card. The government purchasing card or government credit card shall be revoked whenever a cardholder is removed from office with the city and shall be suspended if such elected official has been suspended from office.

J. Agreement

Before being issued a government purchasing card or government credit card under this policy and state law, all authorized users of government purchasing cards or government credit cards shall sign and accept below indicating that such user will use such cards only in accordance with the policies of the city and with the requirements of state law.

Name Printed

Signature

Date: