



## CITY OF STONECREST, GEORGIA

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*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*

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### CITY COUNCIL MEETING AGENDA

November 19, 2018

7:00pm.

3120 Stonecrest Blvd. Suite 190

Stonecrest, Georgia

- I. **CALL TO ORDER:** Mayor Jason Lary
- II. **ROLL CALL:** Brenda James, Interim City Clerk
- III. **INVOCATION:**
- IV. **PLEDGE OF ALLEGIANCE:**
- V. **ADOPTION OF THE CITY COUNCIL AGENDA:**
- VI. **MINUTES:** Approval of Minutes of the City Council Meeting of November 7, 2018
- VII. **PUBLIC HEARING:**
  1. Ordinance for Rezoning Application RA-18-006 6206 Covington Highway-  
**Community Development**
  2. Ordinance TMOD 18-0006 (Amend Section 3.5.15 Low-Rise Mixed-Use Zone,  
Tier III) – **Community Development**
- VIII. **PUBLIC COMMENTS:**
- IX. **CONSENT AGENDA ITEMS:**
  3. Lot Combination of Lakeview at Stonecrest Subdivision,  
7196,7340,7345,7280,7226 and 7290 Rockland Road – **Community  
Development**

4. Lot Combination Pod D Parks of Stonecrest Subdivision – **Community Development**
5. Intergovernmental Agreement for Solid Waste Management Services with DeKalb County- **City Attorney**

**X. AGENDA ITEMS:**

6. 2019 Planning Commission Meeting Schedule – **Community Development**
7. An Ordinance Adopting Chapter 22 to the City Code (Solid Waste) – **First Read – City Attorney**
8. An Ordinance Adopting Chapter 22.5 to the City Code (Storm Sewer Illicit Discharge and Illegal Connection) – **First Read - City Attorney**
9. An Ordinance Adopting Chapter 25 to the City Code (Water, Sewer and Sewage Disposal) – **First Read – City Attorney**
10. Resolution to Amend the Resolution for the Formation of the SPLOST Citizen Oversight Advisory Committee and Appointment of Members- **Council**
11. Development Authority Replacement Member- **Mayor Lary**

**XI. CITY MANAGER COMMENTS:**

**XII. CITY ATTORNEY COMMENTS:**

**XIII. MAYOR AND COUNCIL COMMENTS:**

**XIV. ADJOURNMENT:**

**XV. EXECUTIVE SESSION:**

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

# CITY OF STONECREST, GEORGIA

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*Honorable Mayor Jason Lary, Sr.*

*Council Member Jimmy Clanton, Jr. – District 1*

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*Council Member Jazzmin Cobble – District 3*

*Council Member George Turner- District 4*

*Council Member Diane Adoma – District 5*

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## CITY COUNCIL MEETING MINUTES

November 7, 2018

9:00am.

3120 Stonecrest Blvd. Suite 190

Stonecrest, Georgia

- I. **CALL TO ORDER:** Mayor Jason Lary
- II. **ROLL CALL:** Council Member Cobble was absent, all other members were present
- III. **INVOCATION:** Council Member Rob Turner
- IV. **PLEDGE OF ALLEGIANCE:**
- V. **ADOPTION OF THE CITY COUNCIL AGENDA:** Council Member Adoma made a motion to adopt the agenda with Council Member Clanton providing the second. **The motion carried unanimously.**
- VI. **MINUTES:** Approval of Minutes of the City Council Meeting of October 15, 2018

Council Member George Turner said a correction to the minutes on page 4 had been inserted. Council Member Rob Turner made a motion to approve the minutes with the correction on page 4. Council Member Adoma provided the second. **The motion carried unanimously.**

### VII. PRESENTATIONS:

### VIII. PUBLIC COMMENTS:

Mera Cardenas spoke on the Historic and Cultural Landmark Ordinance and how history is important.

Faye Coffield spoke on the importance of history, rental units in Stonecrest and signage at Woodrow and Evans Mill.

## IX. AGENDA ITEMS:

1. Amended and Restated Resolution Authorizing the Establishment of the SPLOST Citizens Oversight Advisory Committee and Appointing the Initial Members

Attorney Laura Cosgray gave an overview of the amended resolution and said the amendment is to revise the 12 names of the initial members only.

Mayor Lary made a motion to approve the Amended and Restated Resolution to amend the appointed members. Council Member Clanton provided the second.

There was much discussion regarding the committee and how the members were appointed, lack of Council Members in the initial discussion to form the committee, how the committee is structured, emails sent recommending names for the committee and lack of email addresses and contact information.

Council Member Adoma said she would like to defer this matter.

After much discussion a vote was taken on the motion. **Council Members Rob Turner, George Turner, Clanton and Mayor Lary voted in favor and Council Member Adoma voted no. The motion was approved.**

**Mayor Lary announced he would be leaving the meeting and turned it over to the Mayor Pro Tem.**

2. An Ordinance to Amend the Charter, Section 1.03 (b) (37) (A) to Amend the Millage Rate Cap

Attorney Tom Kurrie gave an overview of the ordinance to amend the charter regarding the Millage Rate Cap.

Council Member Clanton made a motion to approve the ordinance to amend the Charter, Section 1.03 (b) (37) (A) to amend the Millage Rate Cap with Council Member George Turner providing the second.

Council Member Adoma read the following statement into the record:

"I believe we will at some point we will begin to deliver additional services and I support growth. However sound research is required to ensure the right decisions are made. Our initial study sustained only the delivery of three services and we are still in the infancy stages of delivering those services which are planning and zoning, code enforcement and parks and recreation. Therefore, I voted "no" because I am concerned about not having a published plan with a financial analysis associated with this decision. When we decide

to offer additional services and the research is done it is only a 60-day window of time for the public hearings so rushing may not be the best course of action.

One of the powers and duties of the Stonecrest Governing body includes setting millage rates for approving the city's budget, approving city expenditures, passing ordinances and resolutions, establishing policies and procedures, hearing rezoning and annexation requests and making appointments to boards, authorities and commissions. However, we also took an oath to be good fiduciary stewards and provide oversight for managing your tax dollars. I believe decisions should be made with a sound business plan and without a financial cost analysis could have future negative consequences and if not handled properly can potentially be a financial disaster.

My other concern was I was unable to find another city who in such a short period of time have removed the cap. Cities such as Tucker and Peachtree Corners have not removed the cap and I was unable to find any city who in the first few years of incorporation have taken this action. Sometimes taxes are necessary to maintain high quality of life and provide other services such as police etc., but it should never be thrust upon the citizens without due diligence. Again, I am uncomfortable and recommend that we conduct basic research to ensure that we can sustain these additional services. Others may argue that a rate cap limits our ability to grow, however, I respectfully disagree, and we need to show in writing how we can consistently provide adequate level of additional services.

I am frequently reminded that government moves very slow compared to private business, however, we are moving very fast with major projects which can have very negative outcomes.

I support additional services, especially police services. If we provide our own, they need to be paid a competitive salary, provided with state-of-the-art equipment and training with benefits, pension and other amenities. Why not provide a public plan to the taxpayer and let them see the analysis?

I would recommend we begin the conversation about perhaps a small dedicated police force, perhaps an officer assigned to each district and then work on a plan to expand. Any usage of the Splost may be perceived as a temporary fix since there are limitations to the uses of the various categories. Considering long term sustainability is a more productive conversation and provides the justification to add additional services.

We need to discuss with sound documentation and research the pros and cons of removing this cap without a business plan or financial analysis."

**A vote was taken on the motion to approve the ordinance with Council Members Rob Turner, George Turner and Clanton voting yes. Council Member Adoma voted no. The motion passed.**

3. An Ordinance to Amend Section 2.13 (e) of the Charter Eliminating the Restrictions of Employment

Council Member Rob Turner made a motion to approve the Ordinance to Amend Section 2.13 (e) of the Charter, Eliminating Restriction of Employment. Council Member Clanton provided the second. **The motion carried unanimously.**

4. An Ordinance to Amend the Charter, Section 3.11 to Change the name of the City Accountant to City Finance Director

Council Member Rob Turner made a motion to approve the Ordinance to amend the charter, Section 3.11 to change the names of the City Accountant to City Finance Director. Council Member Clanton provided the second. **The motion carried unanimously.**

5. An Ordinance to Amend the Charter, Sections 4.02, 4.03 and 4.06 of Article IV amending the Titles of any Municipal Judge

Council Member Clanton made a motion to approve the Ordinance to amend the Charter, Sections 4.02,4.03 and 4.06 of Article IV amending the Titles of any Municipal Judge. Council Member Rob Turner provided the second. **The motion carried unanimously.**

6. An Ordinance for the Creation of the Stonecrest Youth Council

There was much discussion regarding the budget and timing for the youth council. Council Member Adoma read the following statement into the record.

**“Ordinance Creating Stonecrest Youth Council  
FOR THE MINUTES AND RECORD NOVEMBER 6, 2018 COUNCIL  
Why this legislation should pass....  
COUNCILWOMAN DIANE DANIELS ADOMA**

Youth Council purpose and mission and benefits to the City of Stonecrest

More than 24% of our population are youth. Currently they do not have an active voice in our government. They are the future of our city. The mission of the youth council is to offer an opening for the youth of Stonecrest to build leadership skills, learn about civic responsibility, gain a better understanding of municipal government, prepare for a lifetime of public and community service and to acquire a greater knowledge of, and appreciation for, the American political system.

The youth advisory committee is to make recommendations to council based on the following terms of reference; 1. To identify and advise on youth issues in the city of Stonecrest, 2. To advise council on the development of policies that are responsive to the

needs of youth, 3. Consult with local youth and feedback results of consultations to council, 4. To assist in the ongoing development and delivery of youth-targeted projects and programs, and 5. To create opportunities for youth leadership development by acting as a resource for youth activities.

We have sponsors ready to fund it for 2018 and possibly 2019 and a team of "boots on the ground" members who are already background checked and ready to hit the ground running. Decrease crime, improved youth relations, ambassadors and exposure to government.

This legislation has been vetted by GMA and many other cities have taken this step to partner with them. This would give youth an opportunity to be more civically engaged, decrease crime by acting as a pseudo diversion program and would create more awareness to the needs of the youth and provide a rich rewarding opportunity for leadership."

After the discussion, Council Member Rob Turner made a motion to defer this item with Council Member Adoma providing the second. **The motion carried unanimously.**

7. An Ordinance to Provide for the Creation of the Stonecrest Youth Council Advisory Committee

Council Member Adoma made a motion to defer the item with Council Member Clanton providing the second. **The motion carried unanimously.**

8. An Ordinance Creating the Historic and Cultural Landmarks Commission

Attorney Cosgray said there were a few things that need to be changed in this ordinance and asked Council to defer the item.

Council Member Clanton made a motion to defer the item with Council Member Rob Turner providing the second. Council Member Adoma said she would like to read her statement into the record.

**AND RECORD NOVEMBER 6, 2018 COUNCIL**

**Why this legislation should pass....**

**COUNCILWOMAN DIANE DANIELS ADOMA**

**PURPOSE OF THE HISTORIC, ARTS AND CULTURAL COMMISSION**

The purpose of the arts and cultural commission is to encourage cultural growth in Stonecrest to ensure that art, culture and entertainment are central elements of the high quality of life for Stonecrest residents. This commission will make recommendations to the city council regarding art projects, concerts, entertainment and will encourage development reduce crime and reduce code enforcement complaints.

We can't afford to be average. Got to be progressive to grow the city and engaging with GA Dept. of Natural Resources is a vehicle to do that. We have to emulate success. This legislation is in line with Stonecrest being a more progressive city. ARC is now taking applications for Atlanta Arts leaders (13 metro cities across the state) can now get resources that we don't currently have. Need to pass ordinances that provide us with a competitive edge to grow Stonecrest. This historic ordinance shows appreciation for the arts and will 1. Increase real estate values at a faster pace; attract arts and cultural investors including local retail and restaurants. 2. It will facilitate new development and 1% of their revenue will be donated to the city to showcase theater performances, concerts and the like. So, it will be a revenue generator for free concerts. We can consider a historic district also. Flat Rock Archives and Klondike will greatly benefit with options to revitalize the historic infrastructures. Research shows that cities that have this legislation in place are benefiting from a focus on public arts and preservation. This will make us more competitive from some sister cities such as Dunwoody, Brookhaven etc. and other municipalities. We can save key cultural and historic structures like Flat Rock Archives.

What will they do?

1. Work with the city to coordinate and oversee historical programs
2. Creates venues to help showcase talents, concerns and local artists of all ages
3. Encourage sponsors of art programs and plan joint events
4. Utilize cultural arts as an economic development catalyst for the community
5. Assist council in coordinating events
6. Accept donations to the arts and historic preservation fund to enhance the city's artistic and cultural heritage as we write our future
7. Offer advice and assistance in aesthetic matters of the city regarding community planning or in other artistic activities that may be referred to it by the city
8. Write description of historic sites
9. Encourage tourism and visitors
10. Legitimate path to revenue

9. Resolution of the City of Stonecrest finding AT&T to be in Violation of State Law by not paying the City a Franchise Fees on Telecommunication Service

**No Action was taken on this item.**

10. Resolution of the City of Stonecrest finding AT&T to be in Violation of State Law by not paying the City a Franchise Fees on Video Services

**No Action was taken on this item.**

**X. CITY MANAGER COMMENTS: None**

**XI. CITY ATTORNEY COMMENTS: None**



## **XII. MAYOR AND COUNCIL COMMENTS:**

Council Member Rob Turner announced the regular monthly community breakfast on Saturday November 10, 2018 from 9-11 at the House of Hope and there will be a representative from Marta present.

Council Member Clanton announced his regular meeting on Saturday, November 10<sup>th</sup> from 10-12 at the Fairfield Baptist Church on 6133 Redan Road.

Council Member Adoma announced the roundabout at Klondike and Rockland Road is being landscaped by Keep DeKalb Beautiful. She also announced at the Townhall meeting on December 18<sup>th</sup> at the Stonecrest Library she will be accepting unwrapped toys for children between the ages of 0 to 18, and on December 25<sup>th</sup> she will be feeding the police and firemen.

Council Member George Turner says on Saturday at Big Miller Grove Church there will be an appreciation day for Public Service Officers. He said Congressman Hank Johnson, State Senator Tonya Anderson and the City of Stonecrest will be present to show their appreciations.

## **XIII. ADJOURNMENT:**

Council Member Clanton made a motion to adjourn the meeting at 10:50am with Council Member Adoma providing the second. **The motion carried unanimously.**

## **XIV. EXECUTIVE SESSION:**

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



## CITY COUNCIL AGENDA ITEM

**SUBJECT: Ordinance for Rezoning Application  
RZ-18-006 (6206 Covington Hwy)**

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

**Date Submitted: 11/13/18      Work Section:              Council Meeting: 11/19/2018**

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**SUBMITTED BY:** Nicole Dozier, Community Development Department Director

**PURPOSE:** To change the zoning from MU-4 (Mixed Use) to RSM (Small Lot Residential) to construct 94 townhomes.

**HISTORY:** This application was heard at the November 7<sup>th</sup>, 2018 Planning Commission Meeting. The applicant requested to change their zoning to MR-1 however staff recommend RSM and the applicant agreed. The Planning Commission recommend approval of the application, with the removal of Conditions # 3 and # 7. Both conditions were recommended by the City Engineer due to the concerns over the traffic at this location.

**OPTIONS:** Approve; Deny; or make Alternative conditions

**RECOMMENDED ACTION:**

Planning Commission recommended approval of petition RZ-18-006 at the November 7<sup>th</sup>, 2018 meeting with conditions.

**ATTACHMENTS:**

- # 1 11/13/18 Staff Report
- # 2 11/13/18 Power Point Presentation

1     **AN ORDINANCE OF THE CITY OF STONECREST, GEORGIA, REGARDING THE**  
2     **REZONING APPLICATION RZ-18-006**

3     **WHEREAS**, the City of Stonecrest has advertised and held public hearings in front of the  
4     Planning Commission and in front of the Mayor and City Council regarding RZ-18-006, the  
5     request to rezone 13.53 acres located at 6206 Covington Highway, Stonecrest, GA from MU-4 to  
6     MR-1;

7  
8     **WHEREAS**, the City of Stonecrest has been vested with substantial powers, rights, and  
9     functions to generally regulate the use of real property for the purposes of maintaining health,  
10    morals, safety, security, peace, and the general welfare of the City; and

11  
12    **WHEREAS**, the health, safety, welfare, aesthetics and morals of the citizens of the City of  
13    Stonecrest, Georgia shall be improved and protected by adoption and implementation of this  
14    Ordinance.

15  
16    **THEREFORE**, the Mayor and City Council of the City of Stonecrest, Georgia, hereby ordain as  
17    follows:

18    **Section 1:**

19    **RZ-18-006** is rezoned from MU-4 to MR-1 with the conditions attached as **Exhibit A**. The  
20    conditions attached as Exhibit A supersede and replace any previous conditions imposed on the  
21    parcels.

22  
23    **Section 2:**

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

28  
29       2. It is hereby declared to be the intention of the Mayor and City Council that, to the  
30       greatest extent allowed by law, each and every section, paragraph, sentence, clause or  
31       phrase of this Ordinance is severable from every other section, paragraph, sentence,  
32       clause or phrase of this Ordinance. It is hereby further declared to be the intention of the  
33       Mayor and City Council that, to the greatest extent allowed by law, no section, paragraph,  
34       sentence, clause or phrase of this Ordinance is mutually dependent upon any other  
35       section, paragraph, sentence, clause or phrase of this Ordinance.

36  
37       3. In the event that any phrase, clause, sentence, paragraph or section of this Ordinance  
38       shall, for any reason whatsoever, be declared invalid, unconstitutional or otherwise  
39       unenforceable by the valid judgment or decree of any court of competent jurisdiction, it is

40 the express intent of the Mayor and City Council that such invalidity, unconstitutionality,  
41 or unenforceability shall, to the greatest extent allowed by law, not render invalid,  
42 unconstitutional or otherwise unenforceable any of the remaining phrases, clauses,  
43 sentences, paragraphs or sections of the Ordinance and that, to the greatest extent allowed  
44 by law, all remaining phrases, clauses, sentences, paragraphs and sections of the  
45 Ordinance shall remain valid, constitutional, enforceable, and of full force and effect.  
46

47 4. All ordinances or resolutions and parts of ordinances or resolutions in conflict herewith  
48 are hereby expressly repealed.  
49

50 5. The within ordinance shall become effective upon its adoption.  
51

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

55 **SO ORDAINED AND EFFECTIVE** this the \_\_\_\_ day of \_\_\_\_\_, 2018.

56 Approved:  
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59 \_\_\_\_\_  
60 Jason Lary, Sr., Mayor  
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62 As to form:  
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65 \_\_\_\_\_  
66 City Attorney  
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68 Attest:  
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72 Brenda James, City Clerk  
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**EXHIBIT A**

**RZ-18-006**

**Attachment #1**

**11/7/2018**

**Planning Commission Staff Report**



## PLANNING COMMISSION STAFF REPORT

MEETING DATE: November 7<sup>TH</sup>, 2018

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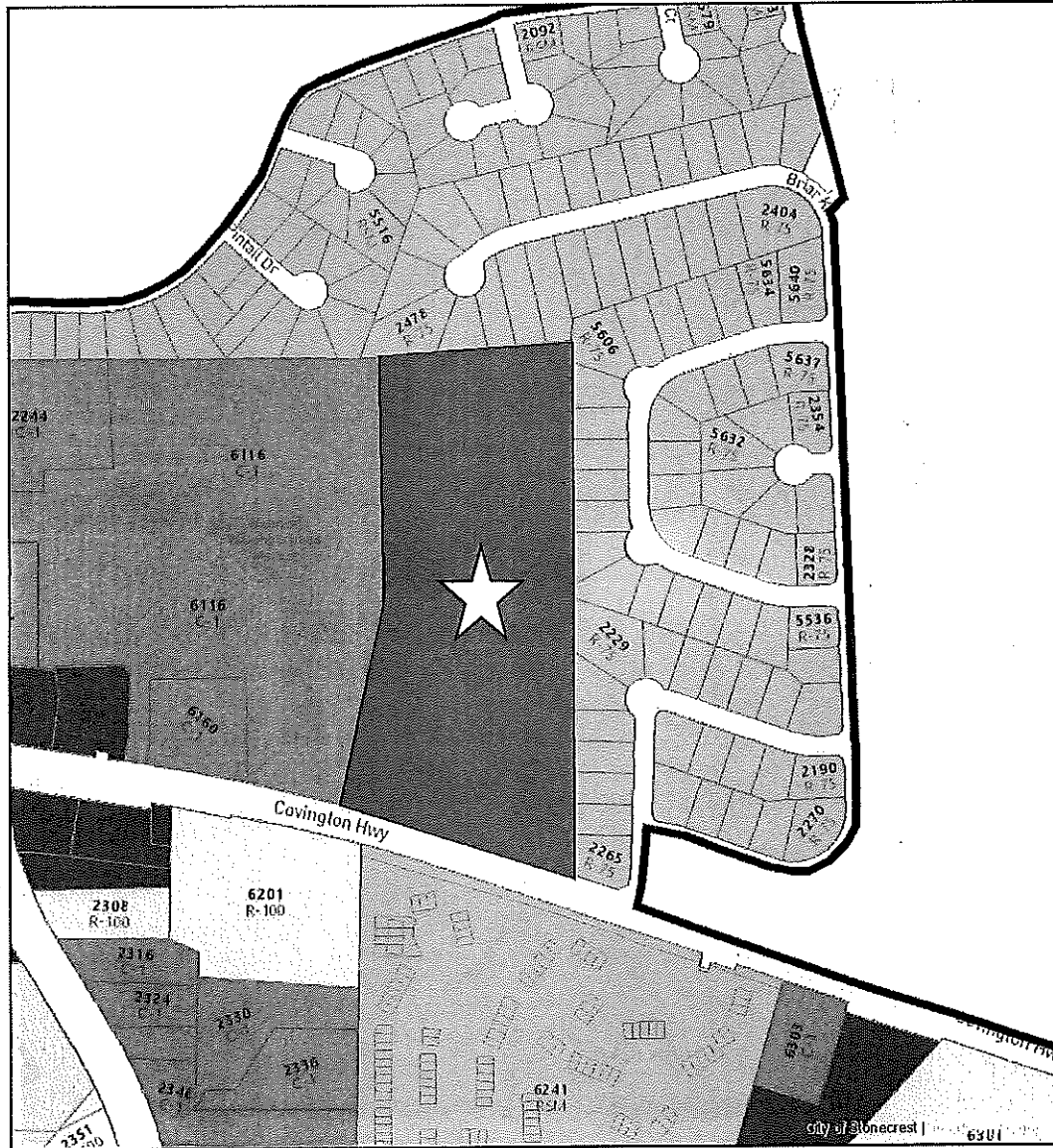
### GENERAL INFORMATION

<b>Petition Number:</b>	RZ-18-006
<b>Applicant:</b>	William R. Probst
<b>Owner:</b>	Panola Limited Partnership
<b>Project Location:</b>	6206 Covington Hwy
<b>District:</b>	District 2
<b>Acreage:</b>	13.53 acres
<b>Existing Zoning:</b>	MU-4 (Mixed Use High Density)
<b>Proposed Zoning:</b>	MR-1 (Med Density Residential)
<b>Proposed Development/Request:</b>	The applicant is requesting to rezone the subject property from MU-4 to MR-1 for the development of 94 townhome unit.
<b>Staff Recommendations:</b>	<b>Approval with Conditions</b>
<b>Planning Commission:</b>	<b>Approval with Conditions</b>



## PLANNING COMMISSION STAFF REPORT

### Zoning Map



**ZONING CASE: RZ-18-006**

ADDRESS: **6206 Covington Hwy**

CURRENT ZONING: **MU-4 Mixed Use High Density**

FUTURE LAND USE: **Neighborhood Center**



Subject Site

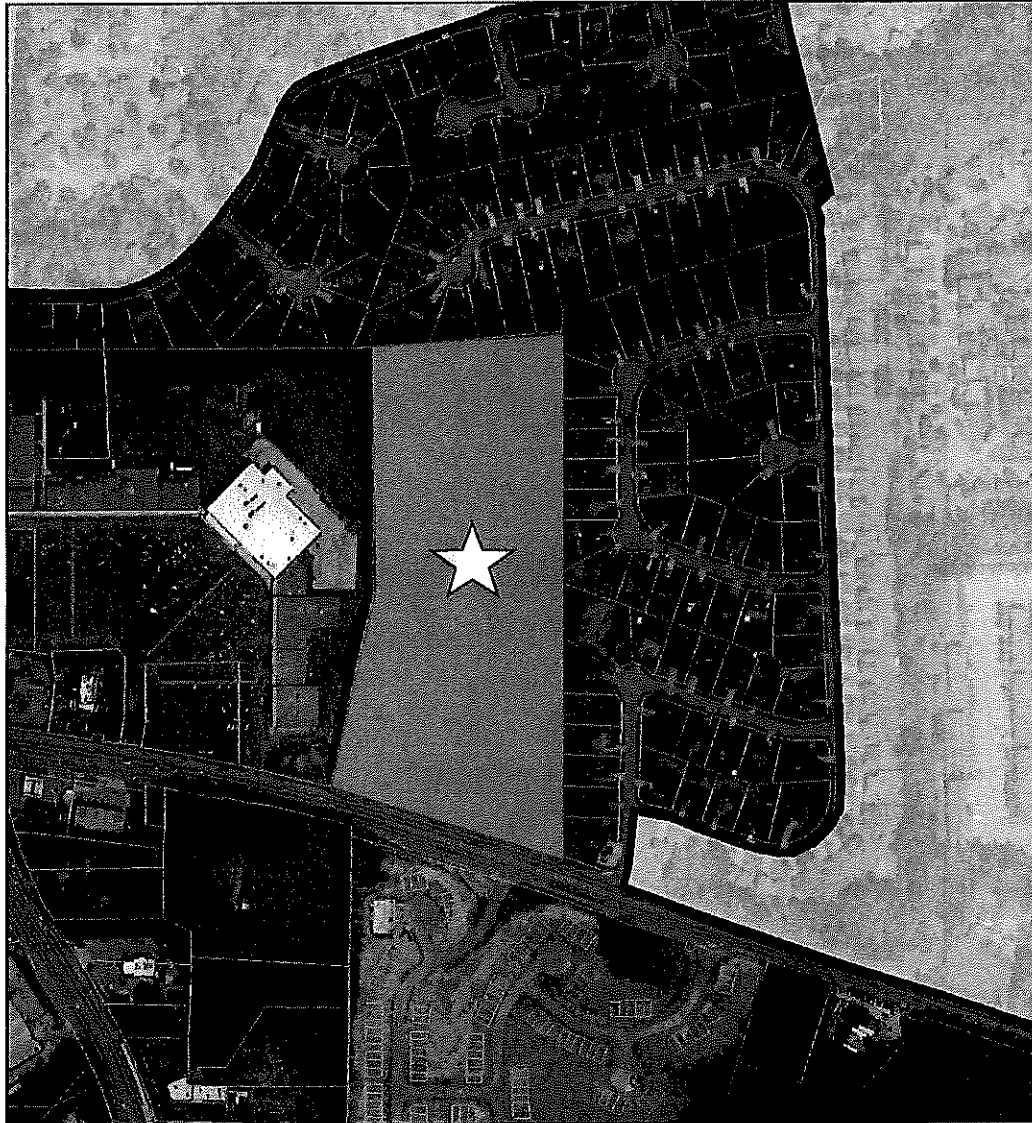
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PLANNING COMMISSION STAFF REPORT

Aerial Map



ZONING CASE: **RZ-18-006**

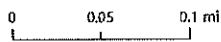
ADDRESS: **6206 Covington Hwy**

CURRENT ZONING: **MU-4 Mixed Use High Density**

FUTURE LAND USE: **Neighborhood Center**



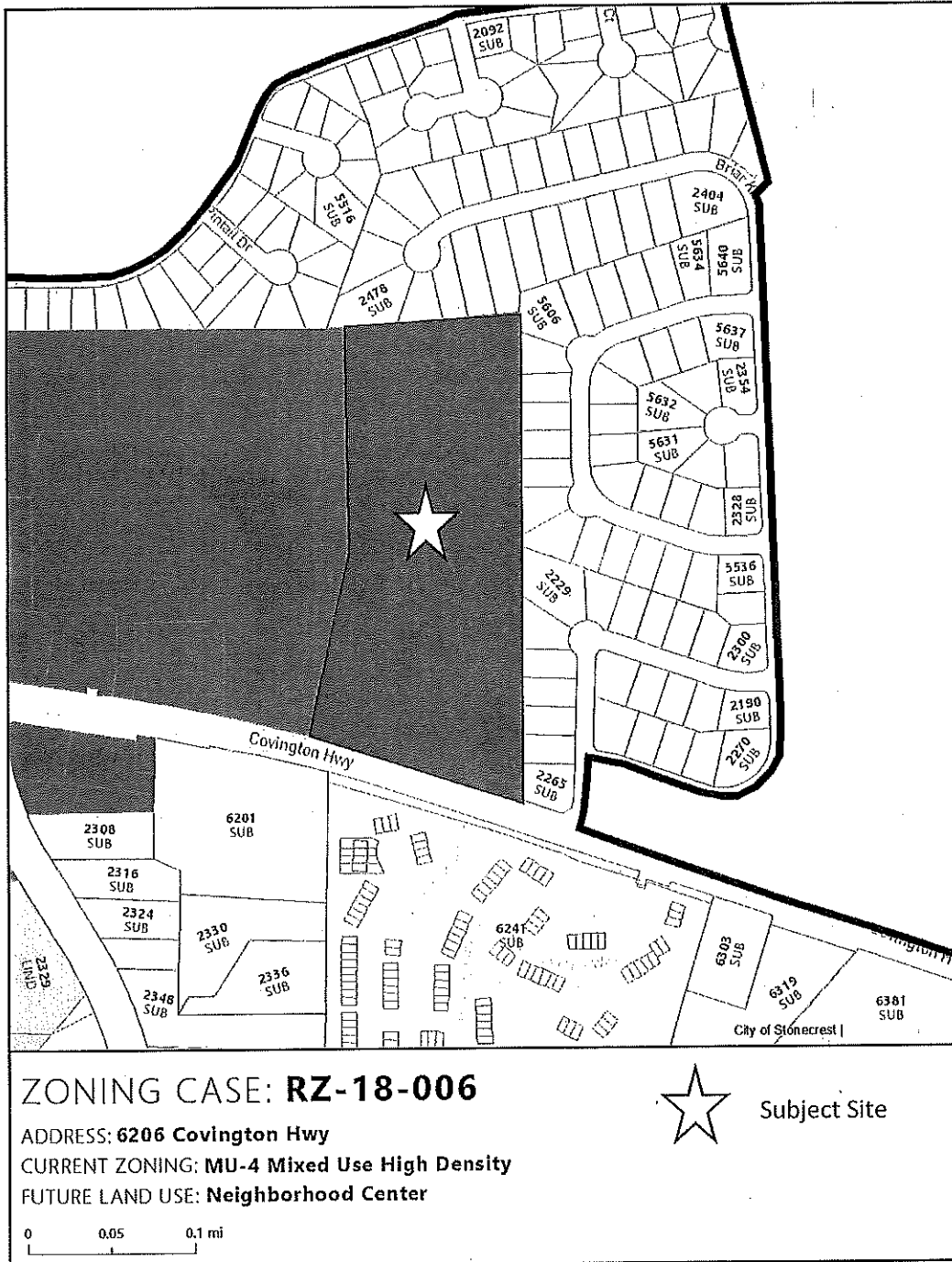
Subject Site





## PLANNING COMMISSION STAFF REPORT

### Future Land Use Map





## PLANNING COMMISSION STAFF REPORT

### PROJECT OVERVIEW

The applicant is requesting a change in zoned 13.53 acres from MU-4 (Mixed-Use High Density) to MR-1 (Med Density Residential) to allow for the construction of 94 attached single-family residential townhomes. The Future Land Use character for this area is Neighborhood Center identified in the Stonecrest Comprehensive Plan.

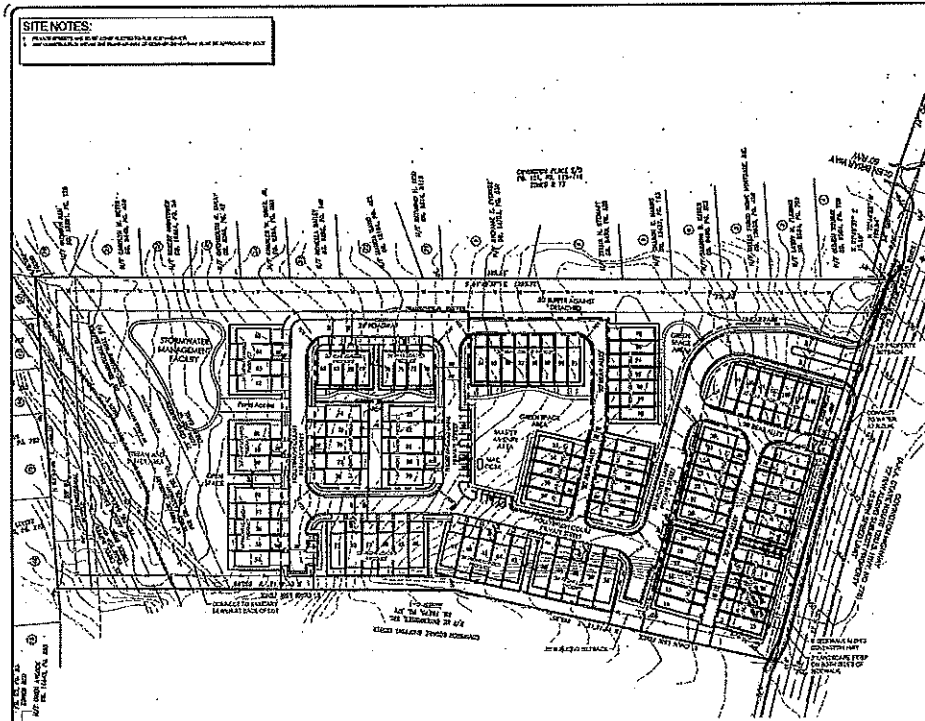
The subject property is located approximately 900 feet to the east of the intersection of Covington Hwy and Panola Road. A private sanitary sewer easement traverses the property in the northern quadrant of the property starting from the southwest and then to the northeast. The property is currently vacant but is vegetated with a mixture of pines and hardwoods. The topography of the property can be characterized by being mostly flat with a sharp 10 feet grade increase located in the southwest corner of the property.

The applicant is proposing 94 fee-simple townhomes targeted to new home buyers. The proposed density will be 7.0 units per acre. The minimum square footage for the townhomes will be 1,200 square feet. Site amenities proposed in the common area are structure and naturalized areas. The structure areas will be a community park while the naturalized area will be a green space. Access to the property will be located off Covington Hwy and the internal roads are proposed to be private. Submitted elevations for the residential units show the façade to be a mixture of brick/stone with accents of traditional lap siding and shakes.

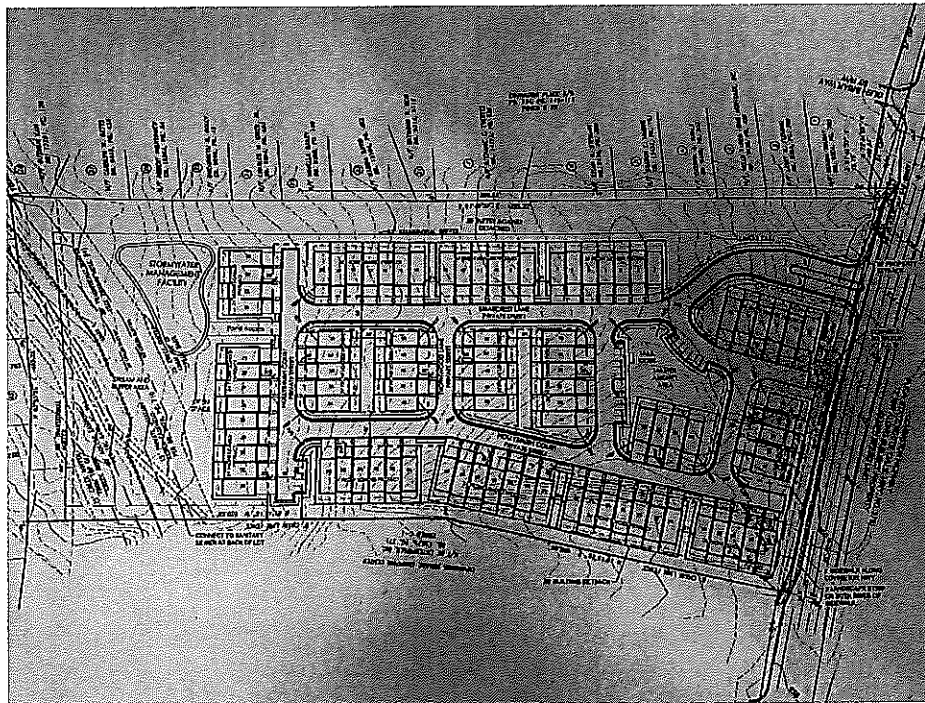
A neighborhood meeting was held on Wednesday, September 19, 2018. There were 6 (six) residents in attendance for the meeting. The main concern was the additional traffic that would be generated by the proposed townhomes. The applicant has scheduled another neighborhood meeting to gain further input from the community.

PLANNING COMMISSION STAFF REPORT

Site plan submitted by applicant



Revised site plan submitted by applicant





PLANNING COMMISSION STAFF REPORT

Property located to West of the subject property (Covington Square)





PLANNING COMMISSION STAFF REPORT

Property located to the East and North of the subject property (Covington Place)



PLANNING COMMISSION STAFF REPORT

Property located to the South of the subject property (Belmont Hills Subdivision)





## PLANNING COMMISSION STAFF REPORT

### STANDARDS OF REVIEW

- **Whether the zoning proposal is in conformity with the policy and intent of the comprehensive plan.**

The zoning proposal is in conformity with the policy and intent of the comprehensive plan. The proposed zoning is in line with the recommended zoning listed for the Neighborhood Center character area.

- **Whether the zoning proposal will permit a use that is suitable in view of the use and development of adjacent and nearby property or properties.**

The zoning proposal will permit a use that is suitable in view of the use and development of the adjacent and nearby properties. The proposed zoning is a transitional zoning between the high-intensity use of C-1 zoning and lower intensity R-75 zoning.

- **Whether the property to be affected by the zoning proposal has a reasonable economic use as currently zoned.**

The subject property has reasonable economic use as currently zoned. The subject property was previously approved for the development of a senior housing mixed-use development.

- **Whether the zoning proposal will adversely affect the existing use or usability of adjacent or nearby property or properties.**

The zoning proposal will not adversely affect the existing use or usability of adjacent or nearby property or properties. The proposed zoning is residential use which is similar to the residential zoning in the immediate area.

- **Whether there are other existing or changing conditions affecting the use and development of the property which gives supporting grounds for either approval or disapproval of the zoning proposal.**

There are no other existing or changing conditions affecting the use and development of the property which gives supporting grounds for either approval or disapproval of the zoning proposal.

- **Whether the zoning proposal will adversely affect historic buildings, sites, districts, or archaeological resources.**

The proposal will not adversely affect historic buildings, sites, districts, or archaeological resources.

- **Whether the zoning proposal will result in a use which will or could cause an excessive or burdensome use of existing streets, transportation facilities, utilities, or schools.**





## PLANNING COMMISSION STAFF REPORT

The proposed zoning will not result in a use in which will cause an excessive or burdensome use of existing streets transportation facilities, utilities or schools.

- **Whether the zoning proposal adversely impacts the environment or surrounding natural resources.**  
The zoning proposal will not adversely impact the environment or surrounding natural resources.

### ANALYSIS

Adjacent & Surrounding Properties	Zoning (Petition Number)	Land Use	Density Non-Residential (SF/Acre) Residential (Units/Acre)
Adjacent: North	R-75 (Covington Place)	Single-family Residential	n/a
Adjacent: South	RSM (Belmont Hills)	Single-family Residential	n/a
Adjacent: East	R-75 (Covington Place)	Single-family Residential	n/a
Nearby: West	C-1 (Covington Square)	Commercial	n/a

The surrounding area can be characterized as a mixture of commercial and residential zoning tracts. Located to the North and West of the subject property is the Covington Place subdivision which is zoned R-75. The Belmont Hills subdivision is located to the South of the subject property and is zoned residential RSM (Small Lot Residential). The subdivision is currently being developed for townhomes. Adjacent to the East of the subject property is a shopping center which is zoned C-1.

MR-1 zoning is designed to encourage primarily residential, planned developments that allow accessory retail, office, institutional, and civic uses. The zoning district should provide for residential neighborhoods with a mix of single-family and multi-family housing types that maintain the harmony of scale, intensity, and design with surrounding development. MR-1 District zoning requires minimum lot is 5,000 square feet and the minimum units size is 1,000 square feet single family detached. The minimum units per acres for MR-1 is 8 units/acre while the max density would be 12 units/acre. The proposed density for the development is at 7 units/acre which does not meet the minimum requirement. The proposed density would be in line with RSM zoning which as a minimum of 4 units/acre and a maximum of 8 units/acre.

The City of Stonecrest Future Development Map as shown on page 67 of the City of Stonecrest Comprehensive Plan identifies the subject property as being within the Character Area Neighborhood Center. These areas shall complement the character of neighborhoods and the location of the commercial areas shall reduce automobile travel, promote walkability and increased transit usage. Policies for this character area preserve and enhance the integrity and quality of existing residential neighborhoods while promoting healthy living in neighborhoods by incorporating a pedestrian environment



## PLANNING COMMISSION STAFF REPORT

that encourages socialization, walking, biking, and connectivity. The proposed zoning and land use is a recommended use for the area however it does not meet the minimum density requirements for the proposed zoning. Even though the density does not meet the minimum requirement it would still be in line with the comprehensive plan goals.

Staff believes a change in zoning is suitable in view of the use and development of adjacent and nearby properties. The proposed change in zoning would be in keeping with the policies and intent of the Comprehensive Plan and would be suitable in view of its impacts on the adjacent and nearby property, therefore, the Department of Community Development recommends **APPROVAL of RZ-18-006 with Conditions**



## PLANNING COMMISSION STAFF REPORT

### RECOMMENDATION

Staff recommends approval of **RZ-18-006** with the following conditions:

1. Recommend zoning of RSM (Small Lot Residential) District) with a minimum of 7.0 units/acres.
2. Residential building facades shall be of similar or complementary architecture, including material, style, color and architectural features submitted with the application. Final elevations are subject to the requirements of the Zoning Ordinance and the review and approval of the Director of Community Development.
3. The development shall be limited to one (1) entrance on Covington Highway. Said entrance shall align with Santander Drive and shall have adequate spacing and sight distance, subject to the approval of the Stonecrest City Engineer and the Georgia Department of Transportation.
4. Owner/Developer shall install ADA compliant sidewalks along both sides of all proposed streets.
5. Owner/Developer shall construct a deceleration lane at the proposed entrance to the development on Covington Highway, subject to the approval of the Stonecrest City Engineer and the Georgia Department of Transportation.
6. Owner/Developer shall construct a left turn lane on Covington Highway lane at the proposed entrance, subject to the approval of the Stonecrest City Engineer and the Georgia Department of Transportation. Said turn lane shall comply with design guidelines as set forth by AASHTO and in the Manual on Uniform Traffic Control Devices (MUTCD).
7. Owner/Developer shall conduct a traffic signal warrant study to determine if a traffic signal is required at the project entrance on Covington Highway. If determined to be warranted, Owner/Developer shall install a traffic signal at no cost to the City of Stonecrest, subject to the approval of the Stonecrest City Engineer, DeKalb County, and the Georgia Department of Transportation.
8. Owner/Developer shall install five foot (5') wide sidewalk along the entire frontage of Covington Highway.
9. Owner/Developer shall dedicate additional right-of-way along the entire frontage of Covington Highway to provide a minimum of twelve feet (12') from the future back of curb or two feet (2') from the future back of sidewalk, whichever is greater.
10. All private streets shall be constructed to City of Stonecrest public street standards.
11. A minimum twenty-foot (20') setback is required from the back of sidewalk to the face of structure in order to accommodate a parked vehicle in the driveway.



## PLANNING COMMISSION STAFF REPORT

12. Owner/Developer shall provide detention, water quality, and channel protection in accordance with the Georgia Stormwater Manual. Detention shall be provided for the 1 thru 100-year storm events with no increased runoff. For the purpose of these calculations, the existing runoff rate shall be considered to be a wooded, predeveloped condition.
13. A seventy-five foot (75') undisturbed buffer is required along all state waters. Any encroachment into this required buffer shall require the approval of the Georgia Environmental Protection Division and/or the City of Stonecrest.
14. Owner/Developer shall comply with the City of Stonecrest Tree Protection Ordinance concerning tree protection and replacement. A minimum on-site tree density of fifteen (15) units/acre shall be required. Any specimen trees removed during the redevelopment shall require additional tree recompense units as required in the ordinance.

### PLANNING COMMISSION RECOMMENDATION

Planning Commission recommends approval of **RZ-18-006** with the following conditions:

1. Recommend zoning of RSM (Small Lot Residential) District) with a minimum of 7.0 units/acres.
2. Residential building facades shall be of similar or complementary architecture, including material, style, color and architectural features submitted with the application. Final elevations are subject to the requirements of the Zoning Ordinance and the review and approval of the Director of Community Development.
3. Owner/Developer shall install ADA compliant sidewalks along both sides of all proposed streets.
4. Owner/Developer shall construct a deceleration lane at the proposed entrance to the development on Covington Highway, subject to the approval of the Stonecrest City Engineer and the Georgia Department of Transportation.
5. Owner/Developer shall construct a left turn lane on Covington Highway lane at the proposed entrance, subject to the approval of the Stonecrest City Engineer and the Georgia Department of Transportation. Said turn lane shall comply with design guidelines as set forth by AASHTO and in the Manual on Uniform Traffic Control Devices (MUTCD).
6. Owner/Developer shall install five foot (5') wide sidewalk along the entire frontage of Covington Highway.
7. Owner/Developer shall dedicate additional right-of-way along the entire frontage of Covington Highway to provide a minimum of twelve feet (12') from the future back of curb or two feet (2') from the future back of sidewalk, whichever is greater.



## PLANNING COMMISSION STAFF REPORT

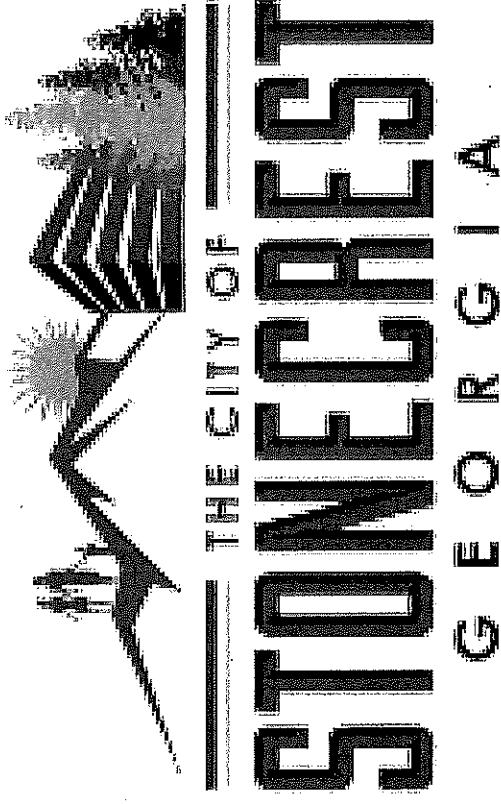
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12. Owner/Developer shall comply with the City of Stonecrest Tree Protection Ordinance concerning tree protection and replacement. A minimum on-site tree density of fifteen (15) units/acre shall be required. Any specimen trees removed during the redevelopment shall require additional tree recompense units as required in the ordinance.

**RZ-18-006**

**Attachment #2**

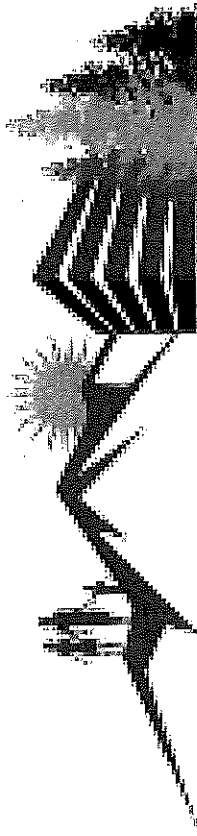
**11/7/2018**

**Planning Commission PowerPoint  
Presentation**



**November 19<sup>th</sup> 2018**

**City Council  
Public Hearing**



THE CITY OF

**STONECREST**

GEORGIA

**RZ-18-006**

**6206 Covington Highway**



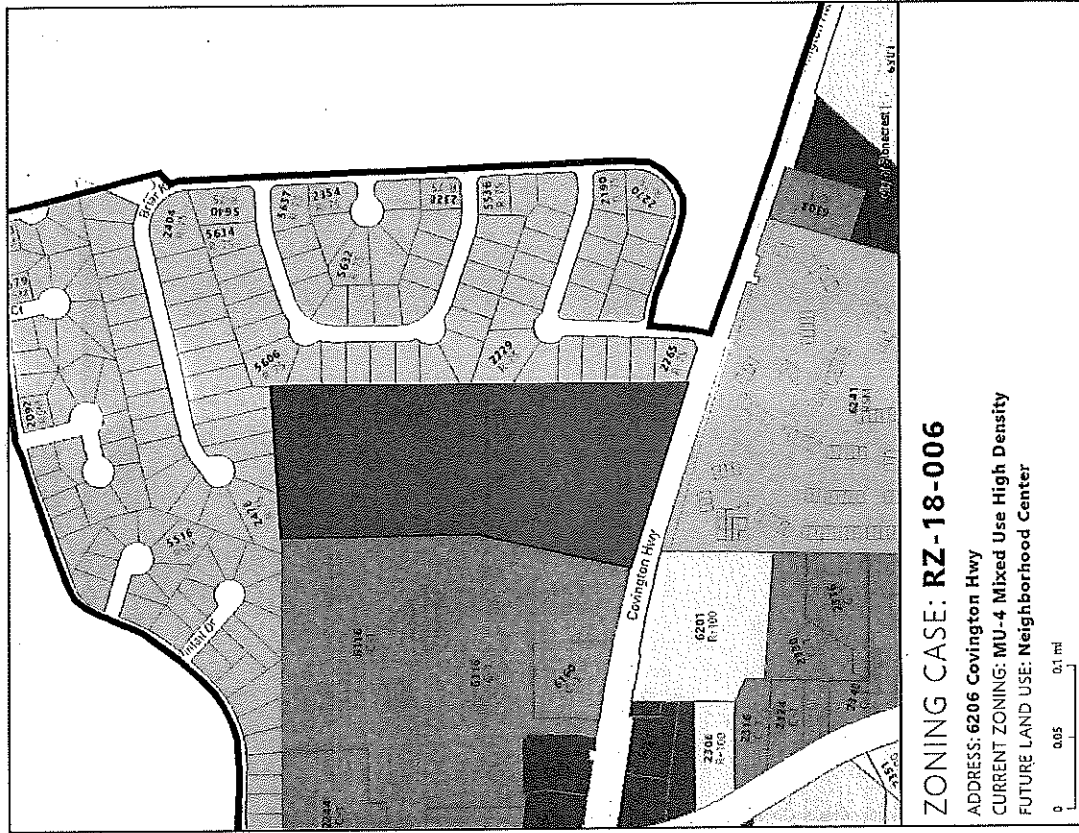


## Petition Information

- **APPLICANT:** William R. Probst c/o Planners and Engineers Collaborative, Inc.
- **LOCATION:** 6206 Covington Hwy
- **ACREAGE:** 13.53 acres
- **REQUEST:** The applicant is requesting to rezone the subject property from MU-2 to MR-1 for the development of 94 townhomes.



# Zoning Map



# Aerial Map



**ZONING CASE: RZ-18-006**

ADDRESS: 6206 Covington Hwy

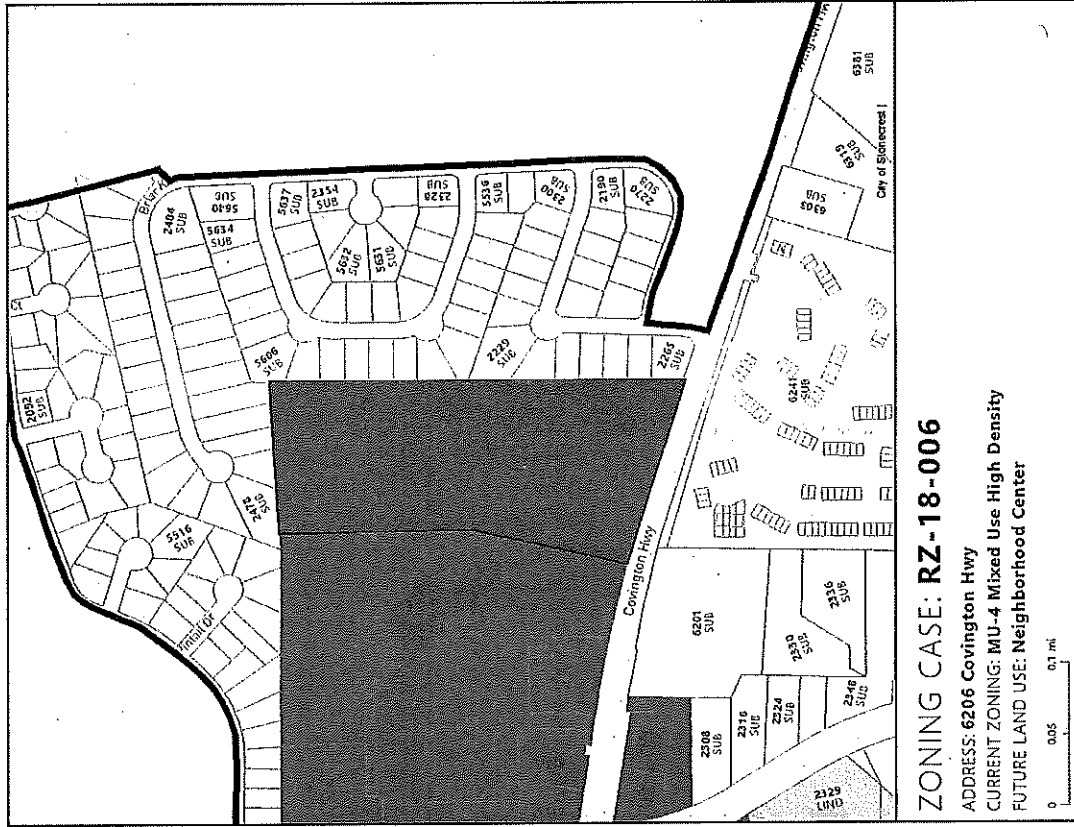
CURRENT ZONING: MU-4 Mixed Use High Density

FUTURE LAND USE: Neighborhood Center

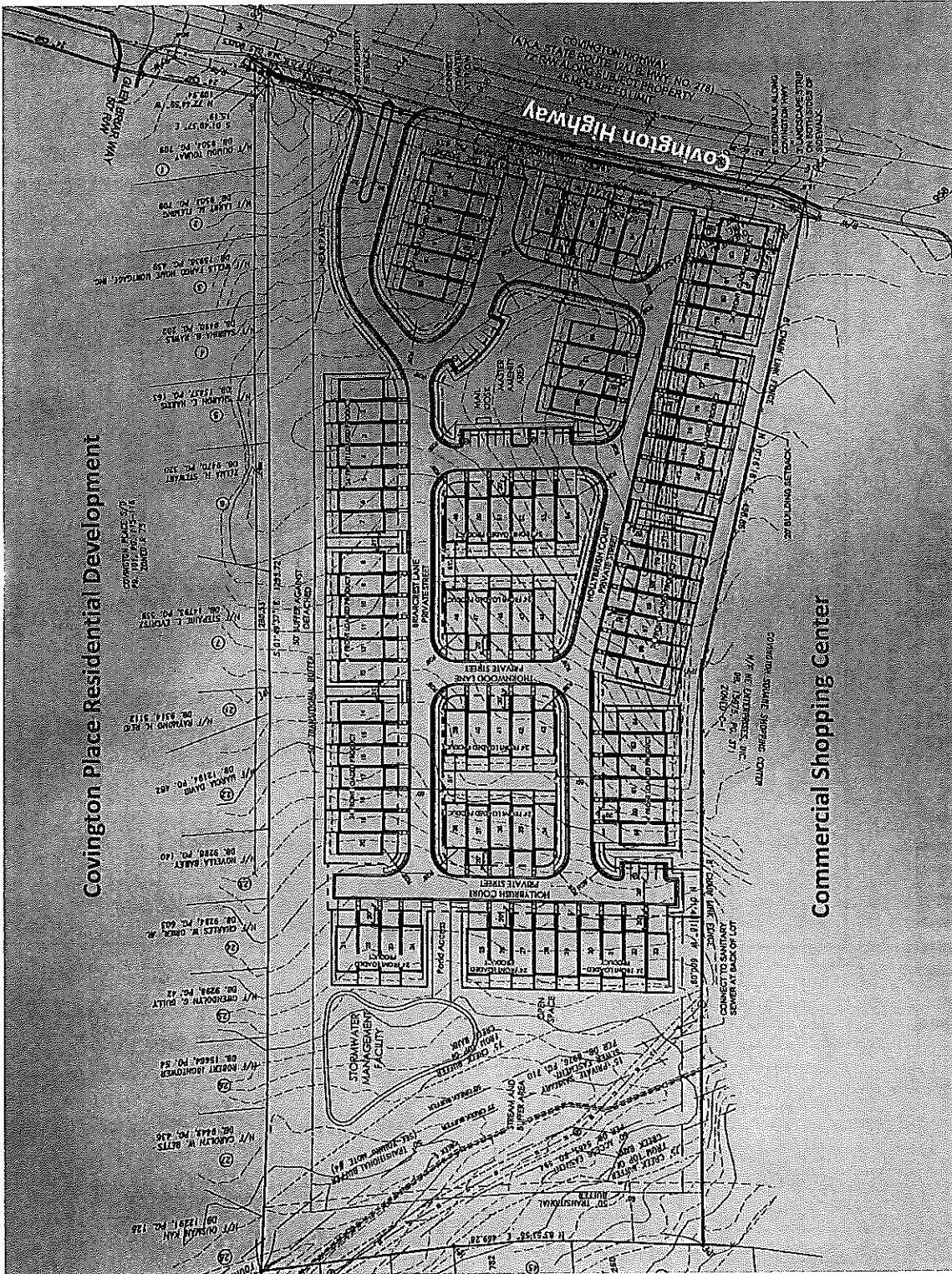
0 0.05 0.1 mi



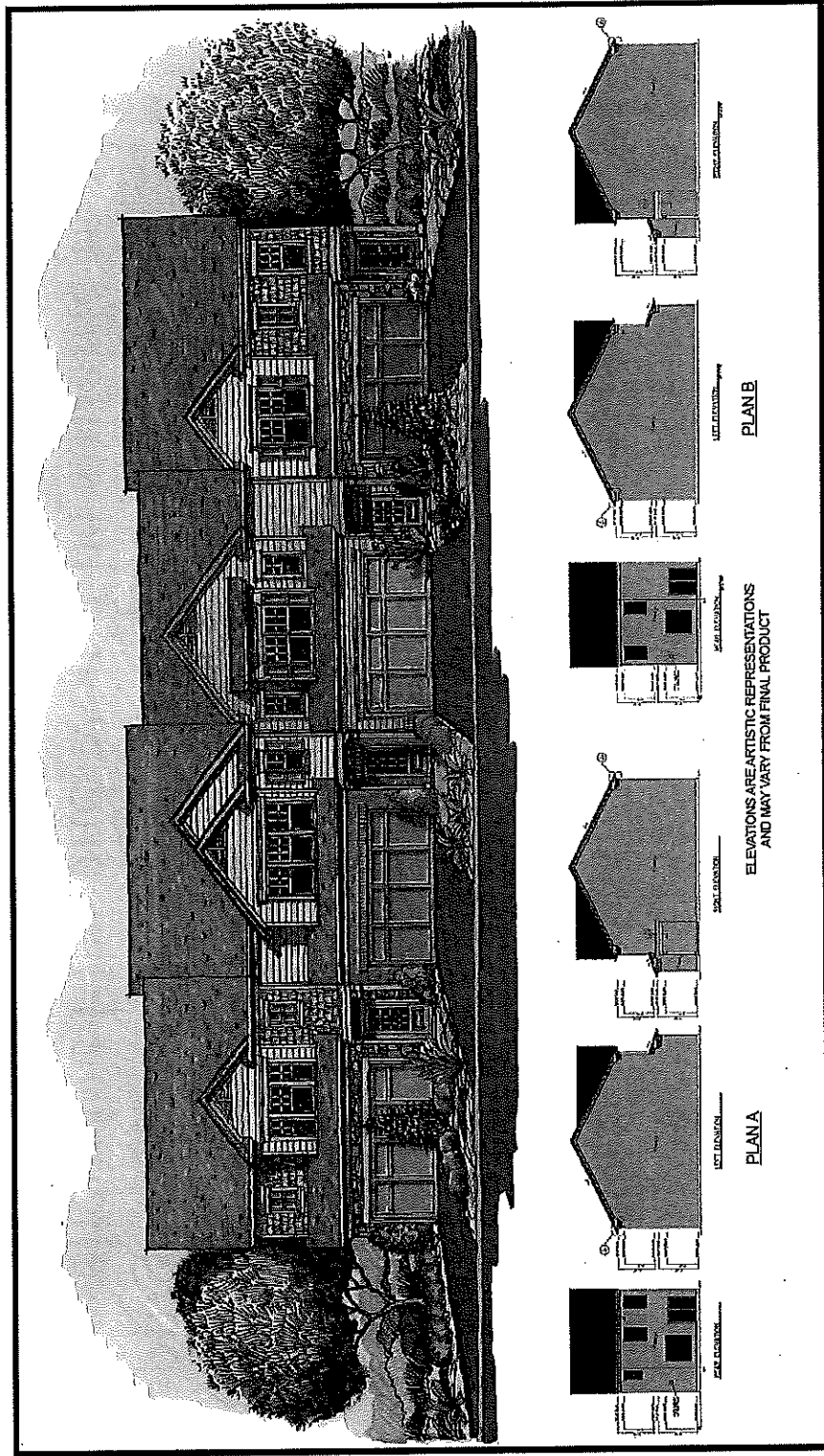
# Future Land Use Map



# Proposed Site Plan



# Proposed Elevation of Townhomes



FRONT ENTRY  
TOWNHOMES



# Staff Analysis

Staff finds this petition:

- The proposed change in zoning is consistent in use and scale with the surrounding uses. Staff believes a change in zoning is suitable in view of the use and development of adjacent and nearby properties.
- Therefore, the proposed change in zoning would be in keeping with the policies and intent of the Comprehensive Plan and would be suitable in view of its impacts on the adjacent and nearby property.

# Planning Commission Recommendations

Staff recommends approval of RZ-18-006 with the following conditions:

1. Recommend zoning of RSM (Small Lot Residential) District) with a minimum of 7.0 units/acres.
2. Residential building facades shall be of similar or complementary architecture, including material, style, color and architectural features submitted with the application. Final elevations are subject to the requirements of the Zoning Ordinance and the review and approval of the Director of Community Development.
3. Owner/Developer shall install ADA compliant sidewalks along both sides of all proposed streets.
4. Owner/Developer shall construct a deceleration lane at the proposed entrance to the development on Covington Highway, subject to the approval of the Stonecrest City Engineer and the Georgia Department of Transportation.
5. Owner/Developer shall construct a left turn lane on Covington Highway lane at the proposed entrance, subject to the approval of the Stonecrest City Engineer and the Georgia Department of Transportation. Said turn lane shall comply with design guidelines as set forth by AASHTO and in the Manual on Uniform Traffic Control Devices (MUTCD).



# Planning Commission Recommendations continued...

6. Owner/Developer shall install five foot (5') wide sidewalk along the entire frontage of Covington Highway.
7. Owner/Developer shall dedicate additional right-of-way along the entire frontage of Covington Highway to provide a minimum of twelve feet (12') from the future back of curb or two feet (2') from the future back of sidewalk, whichever is greater.
8. All private streets shall be constructed to City of Stonecrest public street standards.
6. A minimum twenty-foot (20') setback is required from the back of sidewalk to the face of structure in order to accommodate a parked vehicle in the driveway.
7. Owner/Developer shall provide detention, water quality, and channel protection in accordance with the Georgia Stormwater Manual. Detention shall be provided for the 1 thru 100-year storm events with no increased runoff. For the purpose of these calculations, the existing runoff rate shall be considered to be a wooded, predeveloped condition.
8. A seventy-five foot (75') undisturbed buffer is required along all state waters. Any encroachment into this required buffer shall require the approval of the Georgia Environmental Protection Division and/or the City of Stonecrest.
9. Owner/Developer shall comply with the City of Stonecrest Tree Protection Ordinance concerning tree protection and replacement. A minimum on-site tree density of fifteen (15) units/acre shall be required. Any specimen trees removed during the redevelopment shall require additional tree recompense units as required in the ordinance.



**CITY COUNCIL AGENDA ITEM**

**SUBJECT:** TMOD 18-0006 (Amend Sec. 3.5.15. – Low-Rise Mixed-Use Zone, Tier III)

- ORDINANCE                       POLICY                                       STATUS REPORT  
 DISCUSSION ONLY               RESOLUTION                               OTHER

**Date Submitted:** 11/13/18

**Council Meeting:** 11/19/2018

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**SUBMITTED BY:** Nicole C.E. Dozier, Community Development Department Director

**PURPOSE:** Amend Sec. 3.5.15. – Low-Rise Mixed-Use Zone (Tier III)

**HISTORY:** This item was originally heard at the November 7, 2018 Planning Commission Meeting and was approved.

**OPTIONS:** Approve; Deny; or make Alternative conditions

**RECOMMENDED ACTION:** The Planning Commission recommended approval of petition TMOD 18-0006 at the November 7, 2018 meeting.

**ATTACHMENT(S):**

- #1 11/7/18 Staff Report  
#2 11/7/18 Sec. 3.5.15. – Low-Rise Mixed-Use Zone (Tier III)

**AN ORDINANCE OF THE CITY OF STONECREST, GEORGIA,  
AMENDING CHAPTER 27, ARTICLE III, SECTION 3.5.15**

1  
2  
3  
4 **WHEREAS**, the City of Stonecrest is authorized to exercise the power of zoning Ga. Const.  
5 Art. IX, Section II, ¶ IV, Ga. Const. Art. IX, Section II, ¶¶ I and III, Official Code  
6 of Georgia Annotated (O.C.G.A.) § 36-66-1 et seq., the City's Charter, the City's  
7 general police powers, and by other powers and authority provided by federal,  
8 state and local laws applicable hereto; and

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

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

15 **WHEREAS**, the City of Stonecrest recognizes necessity of implementing regulations which  
16 protect the health, safety and welfare of its citizens;

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

21 **WHEREAS**, the City of Stonecrest has advertised and held public hearings on November 7,  
22 2018 and November 19, 2018 on the adoption of the amendment to Chapter 27,  
23 Article III.

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

26 **Section 1: Chapter 27, Article III, Section 3.5.15 of the Code of the City of Stonecrest,**  
27 **Georgia, is hereby amended to read as follows:**

28 Sec. 3.5.15. - Low-Rise Mixed-Use Zone (Tier III).

29 A. *Principal uses and structures.* A combination of the following principal uses of land and  
30 structures shall be authorized within Tier III: Low-Rise Mixed-Use Zone of the Stonecrest  
31 Area Compatible Use Overlay District:

- 32 1. All uses authorized in the C-1 and C-2 (General Commercial) District, except those  
33 listed in B., below.
- 34 2. All uses authorized in the O-I (Office Institutional) District, except those listed in B.,  
35 below.
- 36 3. All uses authorized in the O-D (Office Distribution) District, except those listed in B.,  
37 below.
- 38 4. All uses authorized in the HR-1(High Density Residential) District.

- 39 5. Buildings that contain a mixture of two (2) or more uses selected from those authorized  
40 in this district.
- 41 6. Single-Family attached or detached units that are part of a planned community so long  
42 as such single family attached or detached units are part of a mixed-use development.
- 43 B. *Prohibited uses.* The following principal uses of land and structures shall be prohibited  
44 within Tier III: Low-Rise Mixed Use Zone of the Stonecrest Area Overlay District:
- 45 1. Kennels.
- 46 2. Storage yards.
- 47 3. Tire dealers and tire repair.
- 48 4. Sexually oriented businesses.
- 49 5. Reserved.
- 50 6. Outdoor amusement and recreation services facilities.
- 51 7. Outdoor storage.
- 52 8. Appliance and equipment repair shops.
- 53 9. Motels.
- 54 10. Used motor vehicle dealers, except those used motor vehicle dealers satisfying the  
55 requirements of subsection K, which is also applicable to new auto sales dealerships.
- 56 11. Temporary and seasonal outdoor sales.
- 57 12. Automobile title loan establishments.
- 58 13. Pawn shops.
- 59 14. Liquor stores.
- 60 15. Salvage yards and junk yards.
- 61 16. Self storage facilities.
- 62 17. Gasoline service stations.
- 63 18. Major and minor automobile repair and maintenance shops.
- 64 19. Commercial parking lots.
- 65 20. Carwashes and detail shops.
- 66 21. Night clubs and late-night establishments.
- 67 22. Check cashing establishments.
- 68 23. Automobile emission testing facilities.
- 69 C. *Accessory uses and structures.* The following accessory uses of land and structures shall be  
70 authorized in the Tier III: Low-Rise Mixed-Use Zone of the Stonecrest Area Overlay  
71 District:
- 72 1. Accessory uses and structures incidental to any authorized use.
- 73 2. Parking lots and parking garages.
- 74 3. Clubhouse, including meeting room or recreation room.
- 75 4. Swimming pools, tennis courts, and other recreation areas and similar amenities.
- 76 5. Signs, in accordance with the provisions of chapter 21 and this chapter.
- 77 6. Accessory uses and structures incidental to any authorized new or used motor vehicle  
78 dealer; including automobile rental/leasing, major and minor automobile repair, new tire  
79 sales, emissions testing, non-public fuel pumps and carwashes, and outdoor storage and  
80 automobile display.

81 D. *Building setbacks.* The following requirements shall apply to all structures in the Tier III:  
 82 Low-Rise Mixed-Use Zone of the Stonecrest Area Overlay District:

- 83 1. *Minimum front yard setback* : Fifteen (15) feet from right-of-way of public street,  
 84 except that front-facing garages of residential units shall be set back a minimum of  
 85 twenty (20) feet from rights-of-way.
- 86 2. *Minimum interior side yard* : Ten (10) feet. There shall be a minimum of fifteen (15)  
 87 feet between buildings and structures less than two (2) stories in height and a minimum  
 88 of twenty (20) feet between any two (2) buildings and structures when one (1) of them  
 89 is greater than two (2) stories in height.
- 90 3. *Minimum rear yard* : Ten (10) feet.

91 E. *Height of buildings and structures.* Maximum height, three (3) stories or forty-five (45) feet,  
 92 whichever is less.

93 F. *Single -Family attached or detached units* may be permitted and shall comply with the  
 94 following:

- 95 1. *Lot with and area.* All residential lots shall have at least twenty-five (25) feet of  
 96 frontage as measured along the public street frontage
- 97 2. *Minimum Lot area.* 3000 sq. feet.
- 98 3. *Setback requirements.*
  - 99 • *Front yard minimum:* fifteen (15) feet.
  - 100 • *Side yard:* ten (10) feet.
  - 101 • *Interior side yard:* three (3) feet with a min. of ten (10) feet separation.
  - 102 • *Rear yard:* ten (10) feet.
- 103 4. *Required Parking*
  - 104 • Single-family attached or detached units shall have two (2) spaces per unit.

106 G. *Density:* No development in the Tier III Zone shall exceed a FAR of one (1), unless it also  
 107 provides additional public space or other amenities singly, or in combination as provided in  
 108 H., below.

109 H. *Bonus density:* The maximum allowable FAR of a building or development in a Tier III  
 110 Zone shall be increased to a FAR not to exceed a total of two (2) in exchange for one (1) or  
 111 more of the additional amenities provided in the table below:

112 **Table 3.3 Maximum Bonus FAR: Tier III**

Maximum Bonus Floor Area Ratio in Stonecrest Area, Tier III Zone	
Additional Amenity	Increased FAR
Increase public space to 25 percent while providing connectivity	0.5

Increase public space to 30 percent while providing connectivity	1.0
Mixed-use building that combines office-institutional with commercial or retail uses. Each mixed-use building shall include one principal use and at least one secondary use. No primary or secondary use shall constitute less than ten percent of the gross floor area of the building.	0.25
Mixed-use building that includes multifamily residential units constituting at least 8 units per acre of land, and constructed in the same building with office, institutional, commercial or retail uses.	0.5

113

114 I. *Required parking.* Required parking may be provided through a combination of off-street,  
 115 on-street, or shared parking provided that all required parking is located within seven  
 116 hundred (700) feet of the principal entrance of buildings which it is intended to serve. The  
 117 minimum number of required parking spaces shall be as provided in article 6, except as  
 118 follows:

- 119 1. Retail uses, personal service uses, and other commercial and general business uses,  
 120 including food stores—Minimum of four (4) spaces per one thousand (1,000) square  
 121 feet of gross floor area.
- 122 2. Office and clinic uses—Minimum of three (3) spaces per one thousand (1,000) square  
 123 feet of gross floor area.
- 124 3. Hotel and motel uses—Minimum of one (1) space per unit.
- 125 4. Multifamily residential uses—Minimum of one and one-half (1.5) spaces per dwelling  
 126 unit.

127 J. *Parking space area requirements.* Parking space area requirements shall comply with the  
 128 provisions of section 6.1.3.

129 K. *Sidewalks.* Sidewalks at least five (5) feet in width shall be provided on both sides along the  
 130 right-of-way of all public streets.

131 L. *New or used motor vehicle dealers.* New or used motor vehicle dealers are authorized in  
 132 Tier III of the Stonecrest Overlay District only if they comply with the following  
 133 requirements:

- 134 1. New or used motor vehicle dealers must be located on a parcel with a lot area of no less  
 135 than three (3) acres, and must contain at least six thousand (6,000) square feet of  
 136 building floor space.
- 137 2. New or used motor vehicle dealers must provide vegetative screening along any  
 138 automobile display areas that abut a public right-of-way. Said vegetative screening shall  
 139 be located outside any guard rails or security fencing abutting such public right-of-way.  
 140 Within three (3) years of planting, the vegetative screening must be of sufficient height  
 141 to screen all guard rails or security fencing abutting the public right-of-way. Planting  
 142 materials shall be subject to the approval of the City of Stonecrest Arborist.

- 143 3. New or used motor vehicle dealers must provide screening of all maintenance areas and  
144 storage yards for automobiles stored for service. Such screening shall be sufficient to  
145 shield the maintenance areas and storage yards from visibility from any adjacent  
146 properties or public rights-of-way. Should vegetative screening be used, planting  
147 material shall be subject to the approval of the City of Stonecrest Arborist.  
148 4. No overhead bay doors opening into vehicle service areas shall be visible from a public  
149 right-of-way.

150  
151

**Section 2:**

- 152 1. It is hereby declared to be the intention of the Mayor and City Council that all sections,  
153 paragraphs, sentences, clauses and phrases of this Ordinance are and were, upon their  
154 enactment, believed by the Mayor and City Council to be fully valid, enforceable and  
155 constitutional.  
156  
157 2. It is hereby declared to be the intention of the Mayor and City Council that, to the  
158 greatest extent allowed by law, each and every section, paragraph, sentence, clause or  
159 phrase of this Ordinance is severable from every other section, paragraph, sentence,  
160 clause or phrase of this Ordinance. It is hereby further declared to be the intention of the  
161 Mayor and City Council that, to the greatest extent allowed by law, no section, paragraph,  
162 sentence, clause or phrase of this Ordinance is mutually dependent upon any other  
163 section, paragraph, sentence, clause or phrase of this Ordinance.  
164  
165 3. In the event that any phrase, clause, sentence, paragraph or section of this Ordinance  
166 shall, for any reason whatsoever, be declared invalid, unconstitutional or otherwise  
167 unenforceable by the valid judgment or decree of any court of competent jurisdiction, it is  
168 the express intent of the Mayor and City Council that such invalidity, unconstitutionality,  
169 or unenforceability shall, to the greatest extent allowed by law, not render invalid,  
170 unconstitutional or otherwise unenforceable any of the remaining phrases, clauses,  
171 sentences, paragraphs or sections of the Ordinance and that, to the greatest extent allowed  
172 by law, all remaining phrases, clauses, sentences, paragraphs and sections of the  
173 Ordinance shall remain valid, constitutional, enforceable, and of full force and effect.  
174  
175 4. All ordinances or resolutions and parts of ordinances or resolutions in conflict herewith  
176 are hereby expressly repealed.  
177  
178 5. The within ordinance shall become effective upon its adoption.  
179  
180 6. The provisions of this Ordinance shall become and be made part of The Code of the City  
181 of Stonecrest, Georgia, and the sections of this Ordinance may be renumbered to  
182 accomplish such intention.

183 **SO ORDAINED AND EFFECTIVE** this the \_\_\_\_ day of \_\_\_\_\_, 2018.

STATE OF GEORGIA  
COUNTY OF DEKALB  
CITY OF STONECREST

ORDINANCE 2018-\_\_\_\_\_

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Approved:

\_\_\_\_\_  
Jason Lary, Sr., Mayor

As to form:

\_\_\_\_\_  
City Attorney

Attest:

\_\_\_\_\_  
Brenda James, City Clerk



**TMOD 18-0006**

**Attachment #1**

**11/7/2018**

**Planning Commission Staff Report**



PLANNING COMMISSION STAFF REPORT

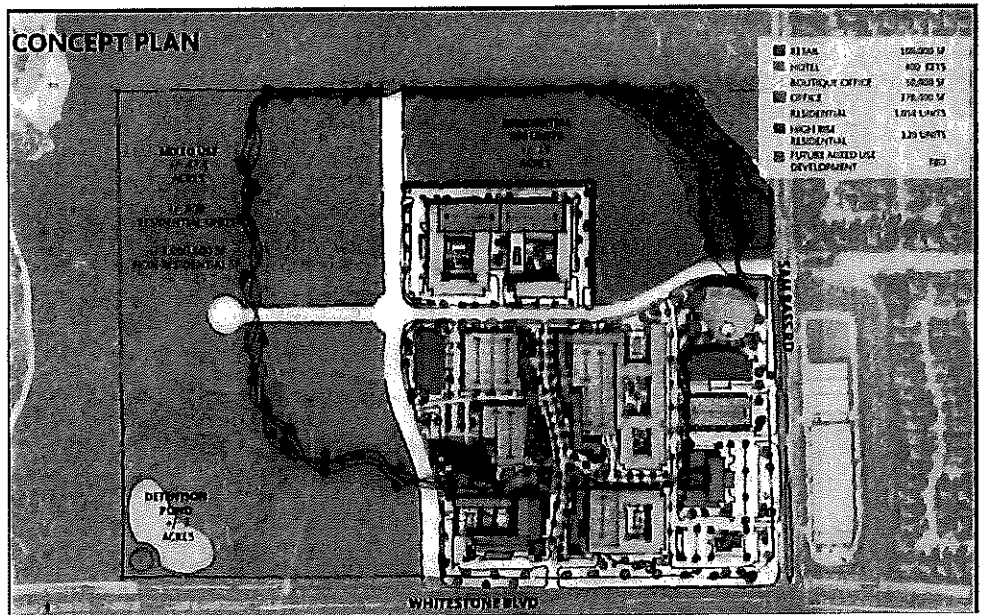
MEETING DATE: November 7, 2018

GENERAL INFORMATION

**Petition Number:** TMOD 18-0006  
**Applicant:** Stonecrest Community Development Department  
**Project Location:** Stonecrest Overlay District

**Discussion:** This is a recommended text amendment to the Stonecrest Overlay District, based on the comments received from the 2038 Comprehensive Plan process. The purpose is to encourage mixed use development within the Stonecrest Overlay District.

Mixed use development is defined as “... a type of urban development that blends residential, commercial, cultural, institutional, or entertainment uses, where those functions are physically and functionally integrated, and that provides pedestrian connections”



**TMOD-18-0006**

**Attachment #2**

**11/7/2018**

**Ordinance: Sec. 3.5.15. – Low-Rise  
Mixed-Use Zone  
(Tier III)**

Sec. 3.5.15. - Low-Rise Mixed-Use Zone (Tier III).

A. *Principal uses and structures.* A combination of The following principal uses of land and structures shall be authorized within Tier III: Low-Rise Mixed-Use Zone of the Stonecrest Area Compatible Use Overlay District:

1. All uses authorized in the C-1 and C-2 (General Commercial) District, except those listed in B., below.
2. All uses authorized in the O-I (Office Institutional) District, except those listed in B., below.
3. All uses authorized in the O-D (Office Distribution) District, except those listed in B., below.
4. All uses authorized in the ~~RMR-275HR-1~~ (Multifamily High Density Residential) District.
5. Buildings that contain a mixture of two (2) or ~~more~~ uses selected from those authorized in this district.
6. Urban Single-Family attached or detached units that are part of a planned community so long as such urban single family attached or detached units are part of a mixed-use development.

B. *Prohibited uses.* The following principal uses of land and structures shall be prohibited within Tier III: Low-Rise Mixed Use Zone of the Stonecrest Area Overlay District:

1. Kennels.
2. Storage yards.
3. Tire dealers and tire repair.
4. Sexually oriented businesses.
5. Reserved.
6. Outdoor amusement and recreation services facilities.
7. Outdoor storage.
8. Appliance and equipment repair shops.
9. Motels.
10. Used motor vehicle dealers, except those used motor vehicle dealers satisfying the requirements of subsection K. which is also applicable to new auto sales dealerships.
11. Temporary and seasonal outdoor sales.
12. Automobile title loan establishments.
13. Pawn shops.
14. Liquor stores.
15. Salvage yards and junk yards.
16. Self storage facilities.
17. Gasoline service stations.
18. Major and minor automobile repair and maintenance shops.
19. Commercial parking lots.
20. Carwashes and detail shops.
21. Night clubs and late-night establishments.
22. Check cashing establishments.
23. Automobile emission testing facilities.

C. *Accessory uses and structures.* The following accessory uses of land and structures shall be authorized in the Tier III: Low-Rise Mixed-Use Zone of the Stonecrest Area Overlay District:

1. Accessory uses and structures incidental to any authorized use.
2. Parking lots and parking garages.
3. Clubhouse, including meeting room or recreation room.
4. Swimming pools, tennis courts, and other recreation areas and similar amenities.
5. Signs, in accordance with the provisions of chapter 21 and this chapter.
6. Accessory uses and structures incidental to any authorized new or used motor vehicle dealer; including automobile rental/leasing, major and minor automobile repair, new tire sales, emissions testing, non-public fuel pumps and carwashes, and outdoor storage and automobile display.

D. *Building setbacks.* The following requirements shall apply to all structures in the Tier III: Low-Rise Mixed-Use Zone of the Stonecrest Area Overlay District:

1. *Minimum front yard setback* : Fifteen (15) feet from right-of-way of public street, except that front-facing garages of residential units shall be set back a minimum of twenty-five (25) feet from rights-of-way.
2. *Minimum interior side yard* : Ten (10) feet. There shall be a minimum of fifteen (15) feet between buildings and structures less than two (2) stories in height and a minimum of twenty (20) feet between any two (2) buildings and structures when one (1) of them is greater than two (2) stories in height.
3. *Minimum rear yard* : Ten (10) feet.

E. *Height of buildings and structures.* Maximum height, three (3) stories or forty-five (45) feet, whichever is less.

F. Urban-Single -Family attached or detached units may be permitted and shall comply with the following:

1. Lot width and area. All residential lots shall have at least twenty-five (25) feet of frontage as measured along the public street frontage

2. Minimum Lot area. ~~1350~~ 3000 sq. feet.

3. Setback requirements.

- Front yard minimum: fifteen (15) feet.
- Side yard: ten (10) feet.
- Interior side yard: ~~threeten (310)~~ feet with a min. of ~~tenthree (103)~~ feet separation.
- Rear yard: ten (10) feet.

4. Required Parking

- Urban-Single-family attached or detached units shall have two (2) spaces per unit.

GF. Density: No development in the Tier III Zone shall exceed a FAR of one (1), unless it also provides additional public space or other amenities singly, or in combination as provided in HG., below.

HG. Bonus density: The maximum allowable FAR of a building or development in a Tier III Zone shall be increased to a FAR not to exceed a total of two (2) in exchange for one (1) or more of the additional amenities provided in the table below:

**Table 3.3 Maximum Bonus FAR: Tier III**

<b>Maximum Bonus Floor Area Ratio in Stonecrest Area, Tier III Zone</b>	
<b>Additional Amenity</b>	<b>Increased FAR</b>
Increase public space to 25 percent while providing connectivity	0.5
Increase public space to 30 percent while providing connectivity	1.0
Mixed-use building that combines office-institutional with commercial or retail uses. Each mixed-use building shall include one principal use and at least one secondary use. No primary or secondary use shall constitute less than ten percent of the gross floor area of the building.	0.25
Mixed-use building that includes multifamily residential units constituting at least 8 units per acre of land, and constructed in the same building with office, institutional, commercial or retail uses.	0.5

IH. Required parking. Required parking may be provided through a combination of off-street, on-street, or shared parking provided that all required parking is located within seven hundred (700) feet of the principal entrance of buildings which it is intended to serve. The minimum number of required parking spaces shall be as provided in article 6, except as follows:

1. Retail uses, personal service uses, and other commercial and general business uses, including food stores—Minimum of four (4) spaces per one thousand (1,000) square feet of gross floor area.
2. Office and clinic uses—Minimum of three (3) spaces per one thousand (1,000) square feet of gross floor area.
3. Hotel and motel uses—Minimum of one (1) space per unit.
4. Multifamily residential uses—Minimum of one and one-half (1.5) spaces per dwelling unit.

IJ. Parking space area requirements. Parking space area requirements shall comply with the provisions of section 6.1.3.

IJ. Sidewalks. Sidewalks at least five (5) feet in width shall be provided on both sides along the right-of-way of all public streets.

LK. New or used motor vehicle dealers. New or used motor vehicle dealers are authorized in Tier III of the Stonecrest Overlay District only if they comply with the following requirements:

1. New or used motor vehicle dealers must be located on a parcel with a lot area of no less than three (3) acres, and must contain at least six thousand (6,000) square feet of building floor space.
2. New or used motor vehicle dealers must provide vegetative screening along any automobile display areas that abut a public right-of-way. Said vegetative screening shall be located outside any guard rails or security fencing abutting such public right-of-way. Within three (3) years of planting, the vegetative screening must be of sufficient height to screen all guard rails or security fencing abutting the public right-of-way. Planting materials shall be subject to the approval of the City of Stonecrest Arborist.
3. New or used motor vehicle dealers must provide screening of all maintenance areas and storage yards for automobiles stored for service. Such screening shall be sufficient to shield the maintenance areas and storage yards from visibility from any adjacent properties or public rights-of-way. Should vegetative screening be used, planting material shall be subject to the approval of the City of Stonecrest Arborist.
4. No overhead bay doors opening into vehicle service areas shall be visible from a public right-of-way.



**CITY COUNCIL AGENDA ITEM**

**SUBJECT: Lot Combination of Lakeview at Stonecrest Subdivision  
7196, 7340, 7345, 7280, 7226, and 7290 Rockland Road / 3620 Turner Hill  
Rd.**

**ORDINANCE**                       **POLICY**                       **STATUS REPORT**  
 **DISCUSSION ONLY**               **RESOLUTION**               **OTHER (Consent  
Agenda Item)**

**Date Submitted: 11/13/18              Work Section:              Council Meeting: 11/19/2018**

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**SUBMITTED BY:** Nicole Dozier, Community Development Department  
Director

**PURPOSE:** The applicant (Rockhaven Homes, LLC) is requesting to  
combine seven (7) parcels for the development of a 264-townhome and  
single-family home subdivision.

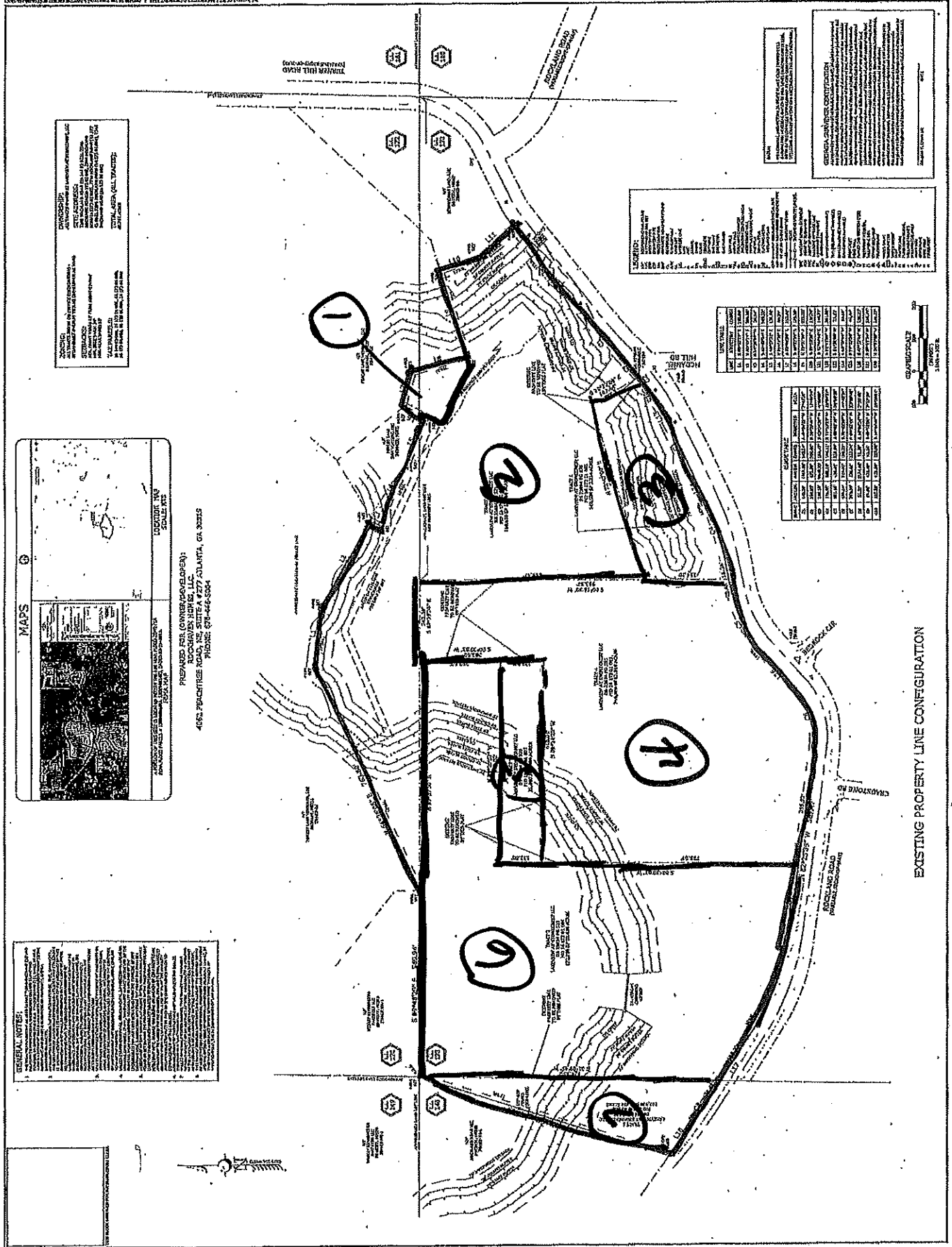
**HISTORY:** This application was heard at the November 7<sup>th</sup> work session.

**OPTIONS:** Approve; Deny; or Defer

**RECOMMENDED ACTION:**  
Staff recommended approval of lot combination application

**ATTACHMENTS:**  
#1 Plat





**PROVISIONS:**  
 1. THIS PLAN IS A PRELIMINARY PLAN AND IS SUBJECT TO THE APPROVAL OF THE LOCAL GOVERNMENT.  
 2. THE OWNER SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS.  
 3. THE OWNER SHALL MAINTAIN ALL EXISTING UTILITIES AND STRUCTURES.  
 4. THE OWNER SHALL BE RESPONSIBLE FOR THE COST OF ALL SURVEYING AND ENGINEERING WORK.  
 5. THE OWNER SHALL BE RESPONSIBLE FOR THE COST OF ALL RECORDING FEES.  
 6. THE OWNER SHALL BE RESPONSIBLE FOR THE COST OF ALL PUBLIC NOTICE REQUIREMENTS.  
 7. THE OWNER SHALL BE RESPONSIBLE FOR THE COST OF ALL LEGAL FEES.  
 8. THE OWNER SHALL BE RESPONSIBLE FOR THE COST OF ALL RECORDING FEES.  
 9. THE OWNER SHALL BE RESPONSIBLE FOR THE COST OF ALL PUBLIC NOTICE REQUIREMENTS.  
 10. THE OWNER SHALL BE RESPONSIBLE FOR THE COST OF ALL LEGAL FEES.

**GENERAL NOTES:**  
 1. ALL DIMENSIONS ARE IN FEET AND DECIMALS THEREOF.  
 2. ALL ANGLES ARE IN DEGREES AND DECIMALS THEREOF.  
 3. ALL CURVES ARE TO BE OPEN TO THE CENTER.  
 4. ALL DISTANCES ARE MEASURED ALONG THE CENTERLINE OF THE ROAD.  
 5. ALL DISTANCES ARE MEASURED ALONG THE CENTERLINE OF THE ROAD.  
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**AREA TABLE**

LOT NO.	AREA (SQ. FT.)	AREA (AC.)
1	10,000	0.23
2	15,000	0.34
3	12,000	0.28
4	25,000	0.58
5	18,000	0.41
6	30,000	0.69
7	20,000	0.46
TOTAL	130,000	3.00

**PERCENTAGE TABLE**

LOT NO.	PERCENTAGE (%)
1	7.7
2	11.5
3	9.2
4	19.2
5	13.8
6	23.1
7	15.5
TOTAL	100.0

**PERCENTAGE TABLE**

LOT NO.	PERCENTAGE (%)
1	7.7
2	11.5
3	9.2
4	19.2
5	13.8
6	23.1
7	15.5
TOTAL	100.0

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4	19.2
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6	23.1
7	15.5
TOTAL	100.0

**PERCENTAGE TABLE**

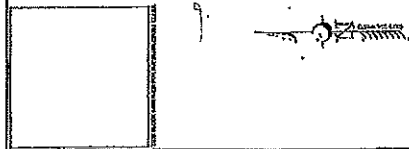
LOT NO.	PERCENTAGE (%)
1	7.7
2	11.5
3	9.2
4	19.2
5	13.8
6	23.1
7	15.5
TOTAL	100.0

**MAPS**

PREPARED FOR (OWNER/DEVELOPER):  
 4651 Peachtree Road, N.W., Suite 1100, Atlanta, GA 30325  
 Phone: 678-444-5244

**EXISTING PROPERTY LINE CONFIGURATION**

**GENERAL NOTES:**  
 1. ALL DIMENSIONS ARE IN FEET AND DECIMALS THEREOF.  
 2. ALL ANGLES ARE IN DEGREES AND DECIMALS THEREOF.  
 3. ALL CURVES ARE TO BE OPEN TO THE CENTER.  
 4. ALL DISTANCES ARE MEASURED ALONG THE CENTERLINE OF THE ROAD.  
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**CITY COUNCIL AGENDA ITEM**

**SUBJECT: Lot Combination Pod D Parks of Stonecrest Subdivision**

- ORDINANCE**                       **POLICY**                       **STATUS REPORT**  
 **DISCUSSION ONLY**               **RESOLUTION**               **OTHER (Consent  
Agenda Item)**

**Date Submitted: 11/13/18              Work Section:              Council Meeting: 11/19/2018**

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**SUBMITTED BY:** Nicole Dozier, Community Development Department  
Director

**PURPOSE:** The applicant (D.R. Horton) is requesting to combine three (3) lots for the proposed development of a 115- single family home subdivision.

**HISTORY:** This application was heard at the November 7<sup>th</sup> work session.

**OPTIONS:** Approve; Deny; or Defer

**RECOMMENDED ACTION:**

Staff recommended approval of lot combination application

**ATTACHMENTS:**

#1 Plat





**CITY COUNCIL AGENDA ITEM**

**SUBJECT: Intergovernmental Agreement for the Provision of Solid Waste Management Services between DeKalb County and the City of Stonecrest**

- ORDINANCE**       **POLICY**       **STATUS REPORT**  
 **DISCUSSION ONLY**       **RESOLUTION**       **OTHER**

**Date Submitted: 10/31/2018    Work Session: 11/07/2018    Council Meeting: 11/19/2018**

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**SUBMITTED BY: City Attorney**

**PURPOSE: This is to authorize the Intergovernmental Agreement between the City of Stonecrest and DeKalb County for Solid Waste Management Services**

**HISTORY:**

**FACTS AND ISSUES:**

**OPTIONS:**

**RECOMMENDED ACTION: Recommendation of Council**

**INTERGOVERNMENTAL AGREEMENT  
FOR THE PROVISION OF SOLID WASTE MANAGEMENT SERVICES  
BETWEEN  
DEKALB COUNTY, GEORGIA and  
THE CITY OF STONECREST, GEORGIA**

**THIS INTERGOVERNMENTAL AGREEMENT is entered into by and between DeKalb County, Georgia and the City of Stonecrest, Georgia.**

WHEREAS, DeKalb County, Georgia ("County") is a constitutionally created political subdivision of the State of Georgia; and

WHEREAS, the City of Stonecrest ("City") is a municipality created by the 2016 Georgia General Assembly pursuant to Senate Bill 208 (hereinafter referred to as "SB 208"); and

WHEREAS, the Georgia Solid Waste Management Act ("SWMA") at O.C.G.A. § 12-8-31.1(a) requires each city and county in Georgia to develop or be included in a comprehensive Solid Waste Management Plan ("SWMP") that conforms to the procedures promulgated by the Georgia Department of Community Affairs; and

WHEREAS, the City desires to ensure that its citizens receive Solid Waste Management Services, as defined herein, in a manner consistent with the SWMA; and

WHEREAS, the County has an approved SWMP in place; and

WHEREAS, the County collects, transports and disposes Solid Waste, as defined herein, in accordance with its SWMP and currently provides Solid Waste Management Services to unincorporated DeKalb County and municipalities located in the County; and

WHEREAS, prior to the formation of the City, the geographic area that now comprises the City was previously a part of the County's SWMP; and

WHEREAS, the City desires to join and be a part of the County's SWMP; and

WHEREAS, the County and the City further desire to establish the cost of the Solid Waste Management Services to be provided by the County to the City pursuant to this Agreement; and

WHEREAS, the County and the City desire to maintain a mutually beneficial, efficient and cooperative relationship that will promote the interests of the citizens of both jurisdictions.

NOW THEREFORE, in consideration of the following mutual obligations, the County and City agree as follows:

**ARTICLE 1  
PURPOSE AND INTENT**

The purpose of this Agreement is to provide for continued Solid Waste Management Services within the City.

**ARTICLE 2  
DEFINITIONS**

For purposes of the Agreement, the following terms shall be defined as:

2.1 **Commercial Establishment** means any business, commercial use, hotel, motel, apartment house, rooming house, industrial, public or semipublic establishment of any nature or kind whatsoever other than a single dwelling unit/residential unit and condominiums.

2.2 **Commercial Refuse** means waste material from industrial processes, manufacturing canneries, slaughterhouses, packing plants, poultry processing plants or similar industries, and large quantities of condemned foods. Commercial refuse also includes waste material from the construction, remodeling and repair operations on houses, commercial buildings, multiple dwellings and other structures such as concrete, bricks, plaster, stone, earth, lumber, roofing materials, gutters, shavings and sawdust.

2.3 **Garbage** means food waste, including waste accumulation of animal or vegetable matter used or intended for use as food, or that attends the preparation, use, cooking, dealing in or storing of meat, fish, fowl, fruit or vegetables.

2.4 **Refuse** means Garbage, Rubbish or Commercial Refuse.

2.5 **Rubbish** means waste paper, cartons, boxes, wood, tree branches, yard trimmings, furniture, appliances, metals, cans, glass crockery, dunnage and/or similar materials.

2.6 **Solid Waste** means any garbage or refuse and as defined by Chapter 22 of the Code of DeKalb County, as Revised 1988; any garbage or refuse; sludge from a waste-water treatment plant, water supply treatment plant, or air pollution control facility; and other discarded material including solid, semisolid, or contained gaseous material resulting from industrial, commercial, mining, and agricultural operations and community activities, but does not include recovered materials; post-use plastics and nonrecycled feedstock that are subsequently processed using a pyrolysis or gasification to fuels and chemicals process; solid or dissolved materials in domestic sewage; solid or dissolved materials in irrigation return flows or industrial discharges that are point sources subject to permit under 33 U.S.C. Section 1342; or source, special nuclear, or by-product material as defined by the federal Atomic Energy Act of 1954, as amended (68 Stat. 923), and as defined by O.C.G.A. § 12-8-22 as may hereafter be amended.

2.7 **Solid Waste Management Services** includes collection, transportation and disposal of Solid Waste from residences, Commercial Establishments and other Special Services as described in this section. The County shall be the sole provider for all commercial solid waste collection services, including garbage and recycling, and the removal of dead animals from public right of ways within the City of Stonecrest.

2.8 Commercial Establishments shall be provided collection services one to six times per week, to be determined by the Commercial Establishments. Commercial Establishments shall also be provided commercial recycling services one to five times weekly, the timing and the fees for such services to be determined by and between the Commercial Establishments and the County. As a service to the public, the County shall also collect mixed paper recycling from drop off sites at various County libraries and fire stations.

2.9 Residential customers shall be provided once weekly curbside garbage collection, including backdoor service for medically eligible residents. For residential customers only, the solid waste services the County provides shall include: once a week yard waste pick-up and appliance pick up; once a week single stream residential subscription recycling service; recycling in City office buildings and facilities; fee-based special and bulky material collection and dead animal collection as set by the County; and glass recycling by drop-off only, at specific recycling locations designated by the County and found on the County's Sanitation website (hereinafter "Residential Services").

2.10 The City agrees to remain in and comply with the Solid Waste Management Plan ("SWMP") managed by the County and conform to the procedures promulgated by the Georgia Department of Community Affairs (the "DCA") and as provided by the Georgia Solid Waste Management Act (the "SWMA"), O.C.G.A. § 12-8-31.1 et seq.

**ARTICLE 3  
TERM OF AGREEMENT**

The term of the Agreement shall commence on 0000 hours on January 1, 2019 through 2400 hours on December 31, 2068, for a total lifetime term of fifty (50) years, unless otherwise terminated in accordance with this Agreement.

**ARTICLE 4  
COMPENSATION AND CONSIDERATION**

4.1 The City shall take all steps necessary to join and be a part of the County's SWMP, as requested by the County.

4.2 For the Solid Waste Management Services to be rendered during the term of this Agreement, the City agrees that the County shall remain entitled to impose and collect its fees in a manner consistent with the fees imposed and collected from the residential customers, commercial customers, and Commercial Establishments in the

unincorporated area of the County. Residential customers and property owners may be billed annually as a separate line item on their County tax bill. Commercial Establishments may be billed monthly or annually, at the County's discretion. The County agrees that residential customers, residential property owners, commercial customers and Commercial Establishments shall be charged fees at the same rate for similar services and in the same manner as such fees are imposed and collected within the unincorporated portion of DeKalb County.

**ARTICLE 5  
PUBLIC WORKS DIRECTOR**

The County Sanitation Director or their designee shall direct and manage the Solid Waste Management Services provided by the County under this Agreement.

**ARTICLE 6  
SERVICES**

During the term of this Agreement, the County shall provide weekly residential and commercial Solid Waste Management Services to the City to be identical to the services provided in unincorporated areas of County, with the same costs and fees charged in the unincorporated areas of the County, unless changed pursuant to this Agreement. All calls, complaints and inquiries from City residential property owners and Commercial Establishments related to Solid Waste Management Services shall continue to be handled by the County in a timely manner. The City Manager and the County Sanitation Director agree to communicate and mutually evaluate the cost and benefit of additional recycling options. The County is not obligated to provide additional recycling services outside the terms of this Agreement, or as otherwise amended.

**ARTICLE 7  
EQUIPMENT**

The County agrees to provide all equipment and personnel necessary to execute the Solid Waste Management Services contemplated in this Agreement.

**ARTICLE 8  
AUTHORITY TO ENFORCE THE COUNTY'S APPLICABLE COLLECTION  
AND DISPOSAL CODE**

8.1 The County shall have concurrent authority to enforce the County codes governing Solid Waste Management within the City of Stonecrest, including collection and disposal services as addressed in the Code of DeKalb County, as Revised 1988, Article I, Section 22-1 through 22-5; Article II, Section 22-26 through Section 22-35, Article III, Section 22-51 through 22-60 and Article IV, Section 22-61 through 22-69 within the City. The County shall have the authority to enforce the City's solid waste collection and disposal code and related provisions within the City's boundaries. The County personnel assigned to the City shall take an oath administered by the Judge of the



Municipal Court of the City, as prescribed by O.C.G.A. §§ 45-3-1 and 45-3-10.1 prior to undertaking code enforcement duties pursuant to this Agreement to enforce the ordinances regulating Solid Waste Management.

8.2 County personnel assigned to the City shall still be deemed an employee of the County while performing the services, duties and responsibilities hereunder and is vested with the police powers of the County that are necessary to provide the code enforcement within the scope of this Agreement.

8.3 Upon being sworn in by the City, County personnel shall be and hereby are vested with the additional power to enforce the applicable ordinances of the City regulating Solid Waste Management, to issue citations incident to the enforcement of applicable County and City ordinances, at the County's discretion, and to perform other tasks as are reasonable and necessary in the exercise of their powers. This vesting of additional powers to enforce these County and City ordinances is made for the sole and limited purpose of giving official and lawful status to the performance of code enforcement services provided by sworn officers within the City.

8.4 County personnel may enforce City ordinances regulating Solid Waste Management Services and shall appear in the Municipal Court of the City as necessary to prosecute cases made therein. The City agrees to compensate the County for any appearances of County personnel in the Municipal Court. The City agrees to provide, at its own expense, citation books containing the printed Municipal Court information to County personnel working within the City.

8.5 Within ninety (90) days of the execution of this Agreement, the City will adopt solid waste management ordinances that are no less stringent and are as broad in scope as Attachment "A", the Code of DeKalb County, Georgia, Article I, Section 22-1 through 22-5, Article II, Section 22-26 through Section 22-35, Article III, Section 22-51 through 22-60 and Article IV, Section 22-61 through 22-69, attached hereto and incorporated by reference, (hereinafter referred to as the County's solid waste management ordinances). If the City does not enact amendments at least as stringent as those adopted by the County and consistent with the requirements of the SWMA and the SWMP within 60 days of the County's enactment, this Agreement will immediately terminate with no further action required of the County. If the City does not enact solid waste management ordinances at least as stringent as the County's solid waste management ordinances, this Agreement will immediately terminate with no further action required of the County. Whenever the County intends to amend its solid waste management ordinances, it will forward a copy of such proposed amendment(s) to the City Manager at least 60 days or as soon as practicable prior to the County's enactment.

## **ARTICLE 9 EMPLOYMENT STATUS**

All County Public Works Department personnel operating in the City, as well as any other County personnel operating under this Agreement are and will continue to be employees of the County for all purposes, including but not limited to duties and

responsibilities, employee benefits, grievance, payroll, pension, promotion, annual or sick leave, standards of performance, training, workers compensation and disciplinary functions.

**ARTICLE 10  
RECORDKEEPING AND REPORTING**

The County Public Works Department is the central repository for all Solid Waste related records and makes available public records as defined by the Georgia Open Records Act, O.C.G.A. 50-18-70, *et seq.* During the term of this Agreement, the County will continue to maintain all reports relating to Solid Waste Management activities it conducts within the City. Except as limited by any provision of state or federal law, the City may request, review and access data and County records at a mutually agreed upon time to ensure compliance with this Agreement.

**ARTICLE 11  
CITY – COUNTY RELATIONS**

The County Public Works Department Director shall be the County's main point of contact regarding Solid Waste Management issues and will coordinate with the City Manager as appropriate.

**ARTICLE 12  
TRANSITION**

The County and City agree that 180 days prior to the end date of this Agreement, the City Manager and the County's Executive Assistant will meet and confer to determine whether the City desires to extend the Agreement.

**ARTICLE 13  
TERMINATION AND REMEDIES**

The City or the County may terminate this Agreement with or without cause or for convenience by giving 180 days prior written notice to the other party. The parties reserve all available remedies afforded by law to enforce any term or condition of this Agreement.

**ARTICLE 14  
NOTICES**

All required notices shall be given by certified first class U.S. Mail, return receipt requested. The parties agree to give each other non-binding duplicate facsimile notice. Future changes in address shall be effective upon written notice being given by the City to the County Executive Assistant or by the County to the City Manager via certified first class U.S. mail, return receipt requested. Notices shall be addressed to the parties at the following addresses:

If to the County:                   Executive Assistant  
1300 Commerce Drive  
Maloof Building, 6<sup>th</sup> Floor  
Decatur, Georgia 30030  
(404) 687-3585 (facsimile)

With a copy to:                   County Attorney  
1300 Commerce Drive, 5<sup>th</sup> Floor  
Decatur, Georgia 30030  
(404) 371-3024 (facsimile)

If to the City:                   City Manager  
City of Stonecrest  
3120 Stonecrest Blvd.  
Stonecrest, GA 30038  
(470) 299-4214 (facsimile)

With a copy to:                   City Attorney  
City of Stonecrest  
3120 Stonecrest Blvd.  
Stonecrest, GA 30038  
(470) 299-4214 (facsimile)

With a copy to:                   Thompson Kurrie, Jr.  
City Attorney  
3475 Lenox Road, NE  
Suite 400  
Atlanta, Georgia 30326  
(770) 698-9729 (facsimile)

**ARTICLE 15  
EXTENSION OF AGREEMENT**

This Agreement may be extended at any time during the term by mutual written consent of both parties so long as such consent is approved by official action of the City Council and approved by official action of the County governing authority.

**ARTICLE 16  
NON-ASSIGNABILITY**

Neither party shall assign any of the obligations or benefits of this Agreement.

**ARTICLE 17  
ENTIRE AGREEMENT**

The parties acknowledge, one to the other, that the terms of this Agreement constitute the entire understanding and Agreement of the parties regarding the subject matter of the Agreement. This Agreement supersedes all prior oral or written agreements or understandings. No representation oral or written not incorporated in this Agreement shall be binding upon the City or the County. All parties must sign any subsequent changes in the Agreement.

**ARTICLE 18  
SEVERABILITY, VENUE AND ENFORCEABILITY**

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

**ARTICLE 19  
BINDING EFFECT**

This Agreement shall inure to the benefit of, and be binding upon, the respective parties' successors.

**ARTICLE 20  
COUNTERPARTS**

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

October 26, 2018

**[SIGNATURES APPEAR ON THE FOLLOWING PAGE]**

IN WITNESS WHEREOF, the County and the City have executed this Agreement through their duly authorized officers.

This \_\_\_\_\_ day of \_\_\_\_\_, 2018.

**DEKALB COUNTY, GEORGIA**

\_\_\_\_\_  
**MICHAEL J. THURMOND**  
Chief Executive Officer

**ATTEST:**

\_\_\_\_\_  
**BARBARA H. SANDERS, CCC**  
Clerk to the Board of Commissioners  
and Chief Executive Officer

**APPROVED AS TO SUBSTANCE:**

**APPROVED AS TO FORM:**

\_\_\_\_\_  
**TRACY A. HUTCHINSON**  
Director of Sanitation

\_\_\_\_\_  
**MARIAN C. ADEIMY**  
Assistant County Attorney

**CITY OF STONECREST, GEORGIA**

\_\_\_\_\_  
**JASON LARY, SR.** (SEAL)  
Mayor

**APPROVED AS TO SUBSTANCE:**

**APPROVED AS TO FORM:**

\_\_\_\_\_  
**MICHAEL HARRIS**  
City Manager

\_\_\_\_\_  
**THOMPSON KURRIE, JR.**  
City Attorney



**CITY COUNCIL AGENDA ITEM**

**SUBJECT:** 2019 Planning Commission Meetings Schedule (Request Approval)

- ORDINANCE                       POLICY                                       STATUS REPORT  
 DISCUSSION ONLY               RESOLUTION                               OTHER

**Date Submitted:** 11/13/18

**Council Meeting:** 11/19/2018

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**SUBMITTED BY:** Nicole C.E. Dozier, Community Development Department Director

**PURPOSE:** 2019 Planning Commission Meetings Schedule (Request Approval)

**HISTORY:** This is the 2019 Planning Commission Meetings Schedule that was approved by the Planning Commissioners at the November 7, 2018 meeting.

**FACTS AND ISSUES:** This item was heard at the November 7, 2018 Planning Commission meeting. The “terms” for all Commissioners will be expiring at the end of the year and approval will allow smooth transition into the new year. The citizens will have the opportunity to view the 2019 schedule in advance and possibly increase attendance at regular scheduled meetings.

**RECOMMENDED ACTION:** The Planning Commission recommended approval of the item because all “terms” will end on December 31, 2018. In an effort to avoid lapse in meetings during the transitional reappointments, approval at this time should lessen the burden placed on Commissioners.

**OPTIONS:** Refer back to the Planning Commission, Approve, Deny; or make Alternative recommendations

**ATTACHMENT(S):**

#1 11/7/18 2019 Planning Commission Meetings Schedule

**Attachment #1**

**11/7/2018**

**2019 Planning Commission Meetings Schedule**





## Planning Commission Meetings

**Note:** Meets the **1st** Tuesday of each month unless otherwise stated.

**Where:** City of Stonecrest, 3120 Stonecrest Blvd., Suite 155, Stonecrest, GA 30038

**Time:** 6:00 P.M.

### 2019

Thursday, January 3, 2019\*

Tuesday, February 5, 2019

Tuesday, March 5, 2019

Tuesday, April 2, 2019

Tuesday, May 7, 2019

Tuesday, June 4, 2019

Tuesday, July 2, 2019\*

Tuesday, August 6, 2019

Wednesday, September 4, 2019\*

Tuesday, October 1, 2019

Wednesday, November 6, 2019

Tuesday, December 3, 2019

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\*Holiday week



**CITY COUNCIL AGENDA ITEM**

**SUBJECT: An Ordinance to Adopt Chapter 22 (Solid Waste) of the City Code**

- ORDINANCE**                       **POLICY**                                       **STATUS REPORT**  
 **DISCUSSION ONLY**               **RESOLUTION**                               **OTHER**

**Council Meeting 10/31/2018    Work Session: 11/07/2018    Council Meeting 11/19/2018**

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**SUBMITTED BY: City Attorney**

**PURPOSE: This item is to adopt chapter 22 into the City charter for Solid Waste**

**HISTORY:**

**FACTS AND ISSUES:**

**OPTIONS:**

**RECOMMENDED ACTION:**

**AN ORDINANCE OF THE CITY OF STONECREST, GEORGIA ADOPTING  
CHAPTER 22 (SOLID WASTE) OF THE CITY CODE.**

**WHEREAS**, the City of Stonecrest, Georgia Mayor and City Council are authorized by the City Charter to provide for the general health, safety and welfare of the citizens of the City; and

**WHEREAS** the Mayor and City Council find it to benefit the welfare of the citizens and the City, and in conjunction with an intergovernmental agreement with DeKalb County for solid waste services, to adopt regulation governing trash pick-up and other solid waste matters that substantially mirror DeKalb County's existing regulations; and

**WHEREAS**, this Ordinance shall be adopted as part of the City of Stonecrest City Code, as Chapter 22 (Solid Waste).

**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 22. Solid Waste" of the City Code to read and be codified as follows:

**ARTICLE I. - IN GENERAL**

**Sec. 22-1. Definitions.**

For the purposes of this Chapter, certain terms and words are defined. Where words have not been defined, but are defined in any other provision of this Code, those words shall have the meaning as defined therein. The following words, terms and phrases, when used in this Chapter shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Approved receptacle for residential solid waste* means a galvanized metal container or durable plastic container or durable plastic bag with the capacity of not less than twenty (20) gallons and no more than thirty-two (32) gallons, with the containers having two (2) durable handles on the sides thereof and a removable tight-fitting top. All containers shall be waterproof. Oil or grease drums, paint cans and similar salvaged containers shall not be acceptable.

*Approved receptacle for yard debris trimmings* means a biodegradable paper bag, empty card board box, clean galvanized metal container or durable plastic container with a capacity of not less than twenty (20) gallons and no more than forty (40) gallons. Containers shall have two (2) durable handles on the sides thereof or a bail by which it may be lifted. Oil or grease drums, paint cans and similar salvaged containers shall not constitute an approved receptacle for yard debris trimmings.

*Collector* means a person who, under agreements, verbal or written, with or without compensation, does the work of collecting and/or transporting solid waste from industries, offices, retail outlets, businesses, institutions and/or similar locations or from residential dwellings; provided, however, that this definition shall not include an individual collecting and/or transporting waste from the individual's own single-family dwelling unit.

*Commercial container* means a manufactured container suitable for emptying by mechanical equipment and approved by the Director. The following general standards are prescribed for commercial containers:

- (1) All containers must be steel, continuous welded and properly reinforced.
- (2) All lids will be flanged and reinforced for strength.
- (3) Pickup side of container shall be reinforced inside or outside at point of torque tub contact.
- (4) Inside reinforcement shall be pressed steel angel.
- (5) Bottoms shall be reinforced with one-and-one-half-inch drain plug installed flush to bottom.
- (6) All containers shall be primed and finished with enamel and epoxy paint.
- (7) Body dimensions as to length and height of container can vary with the size of container; however, all container widths will be seventy (70) inches. Minimum gauges of steel shall be as follows:

Walls	12 gauge
Ends	12 gauge

Bottoms	12 gauge for 4 cu. ft. and below
	10 gauge for all over 4 cu. ft.
Lids	16 gauge
Doors	14 gauge

*Commercial establishment* means any hotel, motel, apartment house, rooming house, business, industrial, public or semipublic establishment of any nature or kind whatsoever other than a single dwelling unit/residential unit and condominiums.

*Commercial front loader container* means a manufactured container suitable for emptying by mechanical equipment and approved by the Director.

*Commercial/industrial solid waste* means solid waste from commercial establishments that includes but is not limited to material from industrial processes, manufacturing canneries, slaughterhouses, packing plants, poultry processing plants or similar industries, and food waste.

*Compactor container* means a manufactured commercial container of any size with a self-contained compacting mechanism or an external compactor which is designed to be used in conjunction with the individual home appliance.

*Compactor front loader container* means a manufactured commercial container of any size with an external mechanical compacting system that detaches in order to be serviced by driving forward to the container using a commercial front loader vehicle.

*Compactor roll-off container* means a manufactured commercial container of any size with an internal or external mechanical compacting system that either detaches or is fully self-contained and is serviced by backing up to the container and hoisting it onto a commercial roll-off container vehicle.

*Condominium* means individual ownership units in a multifamily structure with a front and back entrance to each unit on the ground level.

*Construction and demolition solid waste* means solid waste from construction and demolition projects that include but is not limited to remodeling, repair operations on houses, commercial buildings, multiple dwellings and other structures such as concrete, bricks, plaster, stone, earth, lumber, roofing materials, gutters, shavings and sawdust.

*Conveyance* means any automobile, plane, train, bus, bicycle, motorcycle or other method of transporting persons from one place to another.

*Department* means the Public Works Department of DeKalb County or its successor for purposes of this Chapter, or that of the City if the context so requires.

*Director* means the Director of the DeKalb County Public Works Department or designee.

*Discard* means to throw, abandon, place, deposit, discharge, dump, bury, burn or dispose of a substance.

*Disposal facility* means any facility or location where any treatment, utilization, processing or deposition of solid waste occurs.

*Finance director* means the director of the department of finance of DeKalb County.

*Garbage* means waste including but not limited to food waste, including waste accumulation of animal or vegetable matter used or intended for use as food, or that attends the preparation, use, cooking, dealing in or storing of meat, fish, fowl, fruit or vegetables.

*Hazardous waste* means solid or liquid waste that does not meet the toxic characteristic leachate procedure requirements and includes but is not limited to highly flammable or explosive wastes; toxic wastes; industrial sludge; and other waste material that the Director determines to be a likely hazard to the public health, safety or environment, except radioactive waste materials.

*Incinerator* means the high temperature waste combustion unit designed to dispose of pathological matter.

*Landfill* means a method of disposing of solid wastes, other than putrescible wastes or hazardous wastes, on land by placing an earth cover thereon.

*Litter* means, but is not limited to, any organic or inorganic waste material, rubbish, refuse, garbage, trash, yard debris, hulls, peelings, debris, grass, weeds, ashes, sand, gravel, slag, brickbats, metal, plastic, and glass containers, broken glass, dead animals or intentionally or unintentionally discarded materials of every kind and description but the term litter does not include "waste" as that term is defined in O.C.G.A. § 16-7-51(6), as amended.

*Multiple dwelling* means a building designed for and containing two (2) or more dwelling units.

*Municipal solid waste* means, but is not limited to, any solid waste derived from households, including garbage, trash and solid waste from single-family and multifamily residences, hotels and motels, bunkhouses, campgrounds, picnic grounds, and day use recreation areas. The term includes yard debris not separated for recycling and commercial solid waste but does not include solid waste from mining, agricultural, or silvicultural operations or industrial processes or operations.

*Noncombustible trash* means, but is not limited to, materials which are unburnable in the incinerator or at incinerator temperature of eight hundred (800) to one thousand eight hundred (1,800) degrees Fahrenheit such as mineral water, metal furniture, large metal scraps and wires, auto bodies or parts, and other similar materials.

*Owner* means any person or entity that generates solid waste on real property in the City and who is designated by the records of the office of the County tax commissioner as the owner of such real property within the City.

*Plastic bag* means a polyethylene or other heavy-duty plastic bag meeting the National Sanitation Foundation standard of at least one and one-half (1.5) mils and not exceeding a thirty-two-gallon capacity.

*Public or private property* means the right of way of any road or highway; any body of water or watercourse or the shores or beaches thereof; any park,

playground, building, refuge, or conservation or recreation area; timberlands or forests; and land used for business, residential, commercial, industrial, or farm purposes.

*Putrescible waste* means wastes that are capable of being decomposed by microorganisms. Examples of putrescible wastes include but are not necessarily limited to kitchen wastes, animal manure, offal, hatchery and poultry processing plant wastes, and garbage.

*Recycle* means any process by which materials that would otherwise become solid waste are collected, separated or processed and reused or returned to use in the form of raw materials or products.

*Refuse* means garbage, rubbish or commercial refuse.

*Residential unit* means any freestanding structure or shelter or any part thereof used or constructed for use as a residence for one (1) family.

*Sanitary landfill* means a method of disposing of putrescible waste on land for final disposition and/or management.

*Sanitation or sanitary district* means designated service areas established by this Code or by a contract with a municipality.

*Scavenge* means uncontrolled picking from discarded solid waste materials.

*Solid waste* means any garbage or refuse; sludge from a wastewater treatment plant, water supply treatment plant, or air pollution control facility; and other discarded materials including solid, liquid, semisolid, or contained gaseous material resulting from industrial, commercial, mining, and agricultural operation materials; solid or dissolved matters in domestic sewage; solid or dissolved materials in irrigation return flows or industrial discharges that are point sources subject under 33 U.S.C. § 1342; or source, special nuclear, or by-product material as defined by the federal Atomic Energy Act of 1954, as amended and as defined by O.C.G.A. § 12-8-22(33), as amended.

*Special industrial waste container* means any container such as a metal box, bucket, an open bed container or special container used for transporting



chemicals, paint, metals, glass, oil products, plastics or any type of material that requires special handling and cannot be incinerated.

*Stationary compactor* means an object of refuse container system which compacts refuse at the site of generation into a pull-on detachable container.

*Tax commissioner* means the constitutional officer charged with collecting both state, county and special taxes and contracted by the City for collection of all City ad valorem taxes.

*Yard debris* means leaves, brush, grass clippings, shrub and tree prunings, discarded Christmas trees, nursery and greenhouse vegetative residuals, and vegetative matter resulting from landscaping development and maintenance other than mining, agricultural, and silvicultural operations.

**Sec. 22-2. Applicability.**

This Chapter applies to the preparation and storage, collection, transportation and disposal of all refuse in the City of Stonecrest, including all public and private property. This Chapter prescribes rules and regulations therefore, regulates the collection of garbage and refuse, provides for the licensing and regulation of private garbage and refuse collection, prescribes rules and regulations for hauling garbage, refuse and other waste material within or through the City, and prohibits the unlawful deposit of litter within the City.

**Sec. 22-3. Private transportation of refuse.**

- (a) It shall be unlawful for any person including DeKalb County refuse collectors and sanitary contractors to haul, convey or cause to be conveyed any refuse, including discarded building material or discarded furniture, upon or along the public streets and roadways except when the material transported is adequately secured in such a manner as to prevent it from falling, leaking or being blown from transporting vehicles. The operator or owner of the offending vehicle shall be personally responsible for any violation of this Section.

- (b) It shall be unlawful for any person not licensed by the City to collect and haul any refuse other than that arising from such person's own accumulation within any areas of the City in which refuse collection service is maintained by contract with DeKalb County.

**Sec. 22-4. Disposal of refuse and garbage generally.**

- (a) It shall be unlawful for any person to dump or to cause to be dumped any garbage, refuse, litter, junk, appliances, equipment, cans, bottles, paper, lumber, trees, tree limbs, brush or parts thereof anywhere in the City except as may be permitted by City regulations at the incinerator or sanitary landfills operated by DeKalb County without the expressed approval by action of the Mayor and City Council under such terms and conditions as may be invoked from time to time by the City.
- (b) The provisions of subsection (a) of this section do not apply to the dumping on private property with the owner's permission of sand, dirt, broken dirt, blocks, broken pavement or other suitable material for use as a fill to raise the elevation of the land, provided it is not maintained in an unsightly condition and provided the owner or owners of the property on which such material is dumped agrees to level such dumped material with appropriate grading equipment and assess the cost thereof against the real property on which such material was dumped.
- (c) If any of the matter or material dumped in violation of the provisions of subsection (a) of this section can be identified as having last belonged to, been in the possession of, sent to or received by, or to have been the property of any person prior to its being dumped as prohibited therein, this identification shall be presumed to be prima facie evidence that the owner dumped or caused to be dumped such matter and material in violation of this Chapter.
- (d) For information leading to the arrest and conviction of any person violating the provisions of this Chapter or the provisions of any state law prohibiting the dumping of garbage, refuse or litter on any public or

private property within the City, the City shall pay a reward in the amount established by action of the Mayor and City Council, if any, a copy of which is on file in the office of the City Clerk, to the person furnishing such information leading to such arrest and conviction and such monies as may be a necessary cost of the operation and administration of the City government.

- (e) All compactors containing combustible materials emptied at a DeKalb County disposal facility will pay the price per ton established in section 22-33 of this Chapter.

**Sec. 22-5. Operation of private landfills.**

- (a) No sanitary landfill or dump shall be operated within the City without written approval of the City, DeKalb County and the State of Georgia.
- (b) Sanitary landfill and landfill hours of operation shall be limited to eighteen (18) hours each day, from 6:00 a.m. to 12:00 a.m., unless daily cover is applied and utilized in the manner described in the sanitary landfill's or landfill's design and operating plan approved by the State of Georgia Environmental Protection Division.

**Secs. 22-6—22-25. - Reserved.**

**ARTICLE II. COUNTY COLLECTION AND DISPOSAL SERVICE.**

**Sec. 22-26. Notice to owner, occupant of unacceptable container or area.**

DeKalb County, or the City of Stonecrest upon request by the County, upon determining that a can, container or area is becoming or has become unserviceable or unsanitary or likely to cause an unsanitary condition, shall issue a notice to the owner or occupant of the premises upon which the can, container or condition exists to inform such person of the condition existing.

**Sec. 22-27. Pickup routes and districts established.**

DeKalb County, as contracted provider of solid waste collection services for the City, shall divide the City into pickup routes, which routes shall be plainly

outlined on a map of DeKalb County and numbered numerically. The County shall prepare a list of the names of all the streets, roads, alleys, drives, highways and other public thoroughfares within each route; shall keep the map and lists for public inspection; and shall furnish a copy of the map showing any particular route along with a list of the names of the public thoroughfares therein to any person who requests them upon the payment of the actual cost for the reproduction of the map and list by either a County or commercial facility, whichever is available.

**Sec. 22-28. Preparation and storage of residential refuse for collection; placement; unacceptable refuse.**

It shall be the duty of the occupant or owner of any premises to keep all refuse pending collection and disposal as follows:

- (1) All garbage shall be free from liquid and initially placed in watertight plastic bags with the tops of such bags securely closed. The owner shall then place the closed plastic bags in an approved receptacle for residential solid waste to be collected and removed by the appropriate DeKalb County employee.
- (2) Other household refuse will be containerized in disposable containers (box, watertight or plastic bag) except that tree branches and heavy brush which will not fit into containers shall be cut in lengths not exceeding four (4) feet in length and stacked in a compact pile on the parkway in front of the residence adjoining the curb, but these piles shall not extend into the street. Sticks, hedge clippings and small brush shall be gathered into bundles and tied securely so that each bundle does not exceed four (4) feet in length nor weigh more than fifty (50) pounds. DeKalb County will not collect logs and limbs over four (4) inches in diameter or over four (4) feet long.
- (3) Noncombustible trash and liquids will not be collected and shall be disposed of by other means.

- (4) All refuse receptacles, except single-use paper or plastic bags, single-use paper or cardboard boxes, shall be kept clean and free of accumulated waste and shall be treated with an effective insecticide if necessary to prevent nuisance.
- (5) It shall be the duty of the occupant of any single residential unit, condominium or multiple residential unit not serviced by a commercial container to place refuse receptacles, watertight paper or plastic bags securely tied, rubbish and bundles, on assigned collection days, at a front curbside location in such a manner as not to obstruct passage; except that the residential superintendent may require it to be placed on any side of a property for the reasons of topography or efficiency. It shall also be the duty of the occupant to place the refuse at an appropriate curbside location at or before 8:00 a.m. or prior to the arrival of the sanitation truck; this placement shall not be made before 5:00 p.m. on the day prior to collection day. Any refuse placed on the curb after the departure of the pickup crew shall be at the peril of the owner and the owner shall be subject to prosecution for violation of this Chapter should the street become littered from the refuse.
- (6) It shall be the duty of the occupant to remove containers from the curbside location to the storage location, which storage location shall be nearer to the residential unit located on the premises than to any street abutting the premises; the removal shall be accomplished not later than 7:00 p.m. on the day the contents are emptied and collected.
- (7) Each owner shall prevent the continued, excessive and unsightly accumulation of refuse upon the property such person occupies or the public thoroughfares adjoining the property.
- (8) It shall be unlawful to place or cause to be placed in any refuse can or container for collection any acid, explosive material, inflammable liquid or dangerous or corrosive material of any kind.

- (9) Inoperative, privately used or worn out household appliances (refrigerators, stoves, washing machines, dryers, discarded furniture) will be collected at the curb on an on-call basis to the department.
- (10) Commercial waste generated from the conduct of business or commercial enterprise carried on from residential units will not be collected except on a special fee basis.

**Sec. 22-29. Preparation and storage of commercial and multiple dwelling refuse for collection.**

- (a) Before a building permit shall be issued for construction of a commercial establishment, condominium or multiple dwelling, arrangements for the storage of refuse and location of containers must be approved by the City.
- (b) Commercial containers at existing commercial establishments and multiple dwellings shall be placed at locations approved by DeKalb County for collection by DeKalb County. The County will not collect refuse from commercial establishments or multiple dwellings unless it is placed in commercial containers, properly located. Cardboard boxes shall be flattened and placed in containers.
- (c) Where the occupants of two (2) or more commercial establishments share the use of a refuse can or commercial container, it shall be the joint responsibility of the users to maintain the area surrounding such cans or containers clean and free of accumulations of refuse.
- (d) The occupant, or occupants, of commercial establishments and the management of multiple dwellings serviced by commercial containers shall be responsible for maintaining the area surrounding such commercial containers clean and free of accumulations of refuse.
- (e) All garbage and rubbish shall be free of liquid and placed in watertight paper or plastic bags with the tops secured prior to placing in commercial containers.
- (f) Commercial containers containing any of the following items will not be emptied:

- (1) Large household or industrial appliances.
  - (2) Furniture.
  - (3) Tires.
  - (4) Wooden crates.
  - (5) Logs or limbs over four (4) feet in length or four (4) inches in diameter.
  - (6) Bed springs.
  - (7) Rock, dirt, concrete blocks, etc.
  - (8) Uncontainerized garbage, yard debris and household trash.
- (g) Normal household appliances will be collected on a special fee basis at multiple dwellings served by commercial containers, when placed adjacent to the commercial container and reported to the Department.
- (h) It is unlawful to place or cause to be placed in any refuse can or container for collection any acid, explosive material, inflammable liquids or dangerous or corrosive material of any kind.

**Sec. 22-30. Collection of refuse generally; conditions for collection by DeKalb County.**

- (a) Refuse may be collected for disposal by DeKalb County, by municipalities or by persons or commercial sanitation firms licensed by DeKalb County.
- (b) DeKalb County and its licensed scavengers will collect refuse under the following conditions:
  - (1) Refuse will be collected twice each week from residential units except for exceptionally large piles of limbs which may require an excessive period of time to load.
  - (2) Refuse will be collected as often as six (6) times a week from commercial establishments.
  - (3) Dead animals (other than dogs and house pets) will not be collected, and dead dogs and house pets will be collected only from animal hospitals, curbsides and public rights-of-way. Dead house pets shall be in a plastic bag and placed at the curb. They

will be collected on a special fee basis and on an on-call basis by DeKalb County. Large dead animals shall be disposed of by burying on the individual's property to whom the animal belongs as neither DeKalb County nor the City of Stonecrest has responsibility to supply service for the removal and disposal of large dead animals.

- (4) Collection service shall be discontinued where garbage or trash cans or commercial containers are inadequate or have been condemned as unfit by an inspector and notice has been given to the owner or occupant of the premises who has refused to correct the situation then existing.
- (c) DeKalb County shall not be responsible for collecting or hauling discarded building material, dirt, rock or discarded furniture and appliances from private property, nor shall it be responsible for collecting or hauling trees, bushes or other vegetation from commercial tree trimmers, landscapers or building contractors except on a special fee basis.

**Sec. 22-31. Garbage collection for disabled persons.**

- (a) Any person who is a full-time resident of a residential unit who is disabled to the extent of being incapable of moving refuse and shall obtain a physician's certificate as to this disability shall not be required to place the refuse at curbside. This section does not apply unless all of the persons in a residential unit are disabled and obtain a physician's certificate. These certificates will be mailed to the Director for appropriate notification of pickup crews. This subsection also applies to temporary disability not to exceed ninety (90) days (extensions are required).
- (b) Residential cans shall not be placed more than one hundred fifty (150) feet from the curb or road edge, nor will refuse cans be picked up if any of the following conditions exist:
  - (1) Gates are locked.
  - (2) Gates are wired or tied shut.



- (3) Dogs are loose in yard.
- (4) Cans are in carports or garages.

**Sec. 22-32. Billing for sanitary services, sanitary docket.**

(a) *Commercial establishments.*

- (1) It shall be the duty of DeKalb County authorized designee to prepare and mail to each owner or lessee of a commercial establishment in the sanitary districts of the County a monthly billing for sanitary services. These monthly payments shall be paid in advance by the owner or lessee of the commercial establishment property. It shall be the duty of the designated DeKalb County officer to enforce the collection of commercial establishment fees and assessments imposed by this Chapter. Failure by the owner or lessee of a commercial establishment to pay any amount due for the collection and disposal of refuse and/or fee imposed pursuant to section 22-33 shall be unlawful and an offense in violation of this Code. Failure by any owner or lessee or a commercial establishment to pay any amount due for the collection and disposal of refuse and/or fee imposed pursuant to section 22-33 may be treated by DeKalb County as a debt for which an action at law may be brought in the same manner as any other charge, assessment or debt.
- (2) It shall be the duty of DeKalb County's authorized designee thereof to prepare, maintain and keep for public inspection a complete record of the name of each commercial establishment owner, the address or by tax map reference if no street address is available, the amount due for the calendar year, the amount of each monthly payment and an entry showing when each payment was made. This record shall be called the commercial establishment sanitary docket and shall be prepared monthly in advance. Each

monthly docket shall be cumulative of all unpaid monthly installments.

- (3) Upon the request of any person interested in examining the title of any parcel of real estate in the sanitary districts of the County, the person in charge of the maintenance of the commercial establishment sanitary docket shall furnish to such person a form statement showing the information required in this section, which form statement shall be signed by the person maintaining the docket and DeKalb County's authorized designee as to the correctness of the information contained therein.
  - (4) On premises being served by the Department where there is a delinquent sanitary installment, after the owner or lessee of a commercial establishment thereof has been notified by the inclusion of the amount of the past due installment in a current statement or on a separate bill or other notice and the owner or lessee of a commercial establishment refuses to promptly pay it, DeKalb County may refuse sanitary pickup at those premises and sanitary service shall not be restored until these delinquent and current installments are paid in full.
- (b) *Residential units.*
- (1) All fees for sanitary services assessed against residential units shall be assessed upon the tax commissioner's books for each year and shall be collected by the tax commissioner. After collection, the tax commissioner shall transfer the sanitary fees to the County treasury according to the same schedule as County taxes. In collection of these sanitary fees, the tax commissioner shall be allowed to resort to any remedy or right allowed by law for the collection and payment of County taxes.
  - (2) It shall be the duty of the tax commissioner to prepare and mail to each owner of a residential unit in the sanitary districts of the

County an annual billing for sanitary services. This sanitary billing will appear as a separate line item assessment on the owner's annual property tax bill and shall become due and payable at the same time that County taxes are due and payable. If such sanitary billing remains unpaid, the tax commissioner or authorized designee, shall have the authority to issue a fi. fa. or execution against the property served, which fi. fa. or execution shall have the same lien dignity and priority as fi. fa.'s or executions issued for County taxes. Each annual installment shall become a lien against the property served on January 1 of each year in the same manner that a lien attaches for County taxes, and such lien shall cover the property of the owner until such billing for sanitary services is paid. Any sanitary billing amount that remains unpaid shall accrue penalty, interest and fi. fa. charges in the same manner and at the same rate as delinquent County taxes.

**Sec. 22-33. Fee.**

The fees for the collection and disposal of refuse and providing such services and to construct and maintain facilities therefor shall be as established by action of the DeKalb County Board of Commissioner, a copy of which is on file in the office of the Clerk of the Board of Commissioners.

**Sec. 22-34. Burning combustible materials in containers owned or used by DeKalb County.**

No person shall burn or attempt to burn or cause to be burned in any container belonging to or used by DeKalb County for refuse collection purposes any combustible material of any nature.

**Sec. 22-35. Yard trimmings disposal restrictions.**

(a) Notwithstanding any other provision of this Chapter to the contrary, all yard trimmings shall be subject to the provisions of this section;

- (b) Yard trimmings shall not be placed in or mixed with municipal solid waste;
- (c) Yard trimmings shall not be disposed at municipal solid waste disposal facilities having liners and leachate collection systems or requiring vertical expansion;
- (d) Yard trimmings shall be sorted and stored for collection in such a manner as to facilitate collection, composting, or other handling;
- (e) Yard trimmings shall be sorted and stockpiled or chipped, composted, used as mulch, or otherwise beneficially reused or recycled to the maximum extent feasible;
- (f) It shall be the duty of the occupant or owner of any premises to separate yard trimmings from all other municipal solid waste;
- (g) Yard trimmings shall not be placed in a plastic bag but shall be placed in an "approved receptacle for yard trimmings" as defined in this Chapter. All other requirements of this Chapter regarding containing yard trimmings and refuse shall apply.

**Secs. 22-36—22-50. Reserved.**

### **ARTICLE III. - PRIVATE SERVICES**

#### **Sec. 22-51. Definition.**

In this Article, "commercial sanitation firm" includes any person engaged in the business of operating a sanitary compactor.

#### **Sec. 22-52. License.**

- (a) No person shall engage in the business of operating a commercial sanitation firm without a license issued by DeKalb County. A license application in compliance with this section shall be submitted to the Department for approval or other disposition.

- (b) Applications are available and may be submitted at the DeKalb County sanitation building, Camp Road, during working hours (8:00 a.m.—4:30 p.m.) Monday through Friday.
- (c) Each application shall have attached a list showing the type, size and location of stationary compactors, stationary compactor containers and/or industrial waste materials to be serviced by the applicant. A commercial sanitation firm applying for a permit to operate stationary compactors, stationary compactor containers or industrial waste containers shall certify at the time of application that the applicant or any corporate officer of the firm is not engaged in any illegal servicing of any commercial containers or refuse collection of any type in the sanitation district.
- (d) Approved licenses shall become effective on the first day of the calendar year. The fee to be paid to DeKalb County for each approved application shall be as established by the County, a copy of which is on file in the office of the Clerk of the DeKalb County Board of Commissioners. The fee shall be prorated for the remainder of the calendar year from the day this license is approved.

**Sec. 22-53. Performance bond.**

Each authorized commercial sanitation firm shall post a performance bond with DeKalb County in the amount established by the County, a copy of which is on file in the office of the Clerk of the DeKalb County Board of Commissioners.

**Sec. 22-54. Monthly charge for each container in use.**

In addition, each authorized commercial sanitation firm shall pay a monthly charge in the amount established by DeKalb County, a copy of which is on file in the office of the Clerk of the DeKalb County Board of Commissioners, for each stationary compactor container or industrial waste container in use on the last day of each month. This fee shall be paid on or before the fifteenth day of each

succeeding month for which the service was rendered. A schedule of the location of each stationary compactor shall accompany the payment of the fees.

**Sec. 22-55. Decals on trucks.**

Each truck used by a commercial sanitation firm to collect and transport combustible solid waste shall bear a decal issued by the Department. The issuance and placement of the decal must be accomplished at the DeKalb County sanitation office building, Camp Road, by the County.

**Sec. 22-56. Decals, identification on compactors, containers.**

Each stationary compactor and industrial waste container shall carry in a conspicuous spot a decal issued by DeKalb County which shows it has been properly permitted to operate in the County. In addition each stationary compactor, stationary compactor container or industrial waste container shall carry in a conspicuous spot the name, telephone number and address of the firm permitted to service the stationary compactor, stationary compactor container or industrial waste container. Any arrangement between firms to service another's units must receive written approval from the County.

**Sec. 22-57. Installation of stationary compactor unit; prior approval of plans.**

Plans and specifications for installing a stationary compactor unit shall be approved by DeKalb County prior to the installation. All stationary compactor shredders and stationary compactor containers shall be installed on class A, three thousand (3,000) psi concrete pads of not less than six (6) inches thickness. All installations shall comply with the requirements of the County mechanical code, fire code and health regulations.

**Sec. 22-58. Special permit for handling special industrial waste.**

Special permits shall be granted to firms holding stationary compactor permits for the installation of special industrial waste containers to handle refuse requiring special handling or special equipment. No special industrial waste container shall be emptied at the incinerator.

**Sec. 22-59. Establishment contracting services exempt from county sanitary assessment.**

A commercial establishment which contracts with a firm licensed to operate a stationary compactor service shall not be required to pay a sanitary assessment while it uses the stationary compactor service, provided additional service is not supplied.

**Sec. 22-60. Disposal of collected refuse.**

Licensees under this Article may dispose of their stationary compactor refuse and all acceptable industrial waste container refuse at the DeKalb County disposal facilities at a fee in the amount established by action of the County.

**ARTICLE IV. SCRAP TIRE ENFORCEMENT**

**Sec. 22-61. Reserved.**

**Sec. 22-62. Intent and purpose.**

The City Council finds that protection of the environment is vital to the health, safety, welfare and economic progress of the City and its citizens. Therefore, it is the intent of this Article to develop regulations and procedures that govern scrap tires from the point of generation to the point of disposal.

**Sec. 22-63. Definitions.**

For the purposes of this Article, certain terms and words are hereby defined. Where words are not herein defined, but are defined in other sections of this Chapter, those words shall have the meaning as defined in therein.

*Dump* means to throw, discard, place, deposit, discharge, bury, burn, or dispose of a substance.

*End user* means the last person who uses the scrap tires, chips, crumb rubber, or similar materials to make a product with economic value, or in the case of energy recovery, the person who utilizes the heat content or other forms of energy from the incineration or pyrolysis of waste tires, chips or similar materials.

*Environmental code enforcement officer* means an officer of the City, or designee, authorized to write official warnings and citations to insure compliance with this Chapter. This definition shall include anyone designated by the City, or its designated solid waste services provider, as a sanitation inspector.

*Manifest* means a document used to identify the quantity and composition and the origin, routing, and destination of scrap tires during transportation from the point of generation, through any intermediate points, to an end user, processor or disposer approved by the Georgia Department of Natural Resources, Environmental Protection Division, hereinafter referred to as EPD.

*Mixed tires* means a heterogeneous group of tires consisting of used, retreadable casings and scrap tires.

*Recycle* means any process by which materials which would otherwise become solid waste are collected, separated, or processed and reused or returned to use in the form of raw materials or products.

*Retreadable casing* means a tire suitable for retreading.

*Reused tire* means a tire used for purposes, approved by the EPD, other than intended, such as playground equipment, offshore reefs, and erosion control.

*Scrap tire* means a tire that is no longer suitable for its originally intended purpose because of wear, damage, or defect.

*Scrap tire carrier* means any person engaged in picking up or transporting scrap tires, not otherwise exempted, for the purpose of removal to a scrap tire processor, end use, or disposal facility.

*Scrap tire generator* means any person who generates scrap tires. Generators may include, but are not limited to, retail tire dealers, retreaders, scrap tire



*Tire retreader* means any person actively engaged in the business of retreading scrap tires by scarifying the surface to remove the old surface tread and attaching a new tread to make a usable tire.

*Ultimate consumer* means the last person who receives and uses a new replacement tire. Ultimate consumers may be, but are not limited to: individual, leasing and private companies purchasing tires from retail dealers for their vehicle fleets and government agencies.

*Used tire* means a tire which has a minimum of two-thirty-seconds (2/32) foot of road tread and which is still suitable for its original purpose. It must be inventoried and marketed in substantially the same fashion as a new tire, and the dealer must be able to provide satisfactory evidence to the City or designee that a market exists, and that the used tires are in fact being marketed.

**Sec. 22-64. General.**

It shall be unlawful to dump scrap tires or cause, suffer or allow the dumping of scrap tires at any place in the City including the following:

- (1) Any public highway, road, street, alley, or thoroughfare, including any portion of the right of way thereof, or on any other public lands except in containers or areas lawfully provided for such dumping; and
- (2) Any river, canal, stream, creek, or fresh water lake; and
- (3) Any public property or private property not owned or maintained by the alleged violator.

**Sec. 22-65. Scrap tire storage, handling, and disposal.**

- (a) O.C.G.A. § 12-8-20 et seq., as amended, are hereby incorporated in this section as if fully set forth herein.
- (b) It shall be the responsibility of the owner or occupant of property to store all scrap tires in a manner that will not adversely affect the public health and safety.

processors, automobile dealers, private company vehicle maintenance shops, garages and service stations.

*Scrap tire processing* means any method, system, or other treatment designed to change the physical form, size, or chemical content of scrap tires and includes all aspects of its management (administration, personnel, land, equipment, building, and other elements) and includes processing by: shredding, chopping, chipping, baling, splitting, recycling or sorting of scrap tires.

*Scrap tire processor* means any person who is approved by the EPD to receive tires from scrap tire generators, scrap tire carriers or the general public for the purpose of scrap tire processing.

*Scrap tire sorter* means any person, other than the original scrap tire generators, who handles mixed tires by separating used tires and retreadable casing from scrap tires.

*Solid waste* means any garbage or refuse; sludge from a wastewater treatment plant, water supply treatment plant, or air pollution control facility; and other discarded material including solid, liquid, semisolid, or contained gaseous material resulting from industrial, commercial, mining, and agricultural operation materials; solid or dissolved matters in domestic sewage; solid or dissolved materials in irrigation return flows or industrial discharges that are point sources subject to permit under 33 U.S.C. Section 1342; or source, special nuclear, or by-product material as defined by the federal Atomic Energy Act of 1954, as amended and as defined by O.C.G.A. § 12-8-22(33) as may hereafter be amended.

*Tire* means a continuous, solid or pneumatic covering designed for encircling the wheel of a vehicle that is not permanently attached to the vehicle or a part of the vehicle as original equipment.

*Tire handling business* means any person that derives fifteen (15) percent or more of its gross income from the sale, processing, transporting or disposal of tires.

*Tire retailer* means any person engaged in the business of selling new replacement tires.

- (c) It shall be the responsibility of the owner or occupant of property to store all scrap tires in a manner that is consistent with federal, state and local law.

**Sec. 22-66. Accumulation.**

- (a) No person may store more than one hundred (100) scrap tires anywhere in the City. Any person storing in excess of one hundred (100) scrap tires shall be deemed to be in violation of this part. The following exceptions shall apply:
  - (1) A solid waste disposal site permitted by the EPD if the permit authorizes the storage of scrap tires prior to their disposal;
  - (2) A tire retailer with not more than three thousand (3,000) scrap tires in storage;
  - (3) A tire retreader with not more than one thousand five hundred (1,500) scrap tires in storage so long as the scrap tires are of the type that the retreader is actively retreading.
  - (4) An auto salvage yard with not more than five hundred (500) scrap tires in storage; and
  - (5) A scrap tire processor approved by the EPD so long as the number of scrap tires in storage do not exceed the quantity approved by the EPD.
- (b) It shall be unlawful for any person to store scrap tires except in a container, located outside of an authorized business, enclosed on all four (4) sides by a solid screen and having a secure top cover to prevent the accumulation of water in the container.

**Sec. 22-67. Compliance.**

- (a) *Scrap tire generator.* Any person who generates scrap tires shall obtain a scrap tire generator identification number issued by EPD and shall maintain copies of manifests for any scrap tires that have been shipped or removed from the business location within the past thirty-six (36) months.

Separate identification numbers are required for each generator having multiple generation locations.

- (1) The manifests shall include the following information:
    - a. Name and identification number of the generator;
    - b. Number and total tonnage (accurate to within ten (10) percent of actual number) of scrap tires to be transported;
    - c. Name and permit number of the scrap tire carrier;
    - d. Date of transport;
    - e. Destination of scrap tires; and
    - f. Signatures of the scrap tire generator, scrap tire carrier and scrap tire processor.
  - (2) The completed manifest(s) and the scrap tire generator identification number shall be made available to the City's code enforcement officer or designee upon request.
  - (3) Scrap tire generator identification numbers are not transferable; and each generator shall insure that the scrap tire section of the EPD approves the carrier being used to transport scrap tires.
- (b) *Scrap tire carrier.* It shall be the responsibility of the carrier to return a completed copy of the manifest to the scrap tire generator within thirty (30) days from the date on which the scrap tire carrier takes possession of the scrap tires. The date the scrap tire carrier takes possession of the scrap tires shall be indicated on the manifest.
- (c) *Tire handling businesses.* All tire handling businesses shall maintain an accurate inventory of all new and used tires received at the place of business, sold to a consumer, sent to another tire handling businesses, or shipped to an approved processor. Inventory and quarterly transport reports shall be kept on site and made available for inspection by City code enforcement officers or designee. Quarterly reports shall be sent to the DeKalb County Director of Public Works and shall include the following information:

- (1) Name of company that transported tires;
- (2) Name of owner of company and driver of transport vehicle;
- (3) Telephone number of transport company;
- (4) Valid environmental protection division scrap tire program transportation identification number;
- (7) Type of vehicle used to transport tires; and
- (8) Quarterly tire transport report shall be mailed to the address below:  
DeKalb County Director of Public Works  
1300 Commerce Drive  
Decatur, Georgia 30030

**Sec. 22-68. Enforcement.**

- (a) Enforcement of this Article shall be the responsibility of the City Code Enforcement officers or designees.
- (b) The Code Enforcement Officers, or designees, are authorized to enforce this Article on behalf of the City, and shall be empowered to enter private property, with the owner's consent, at reasonable times in order to inspect the property for violation of this Article. If the owner does not consent to such entry on private property for inspection, such officer shall obtain a warrant to enter upon the property.

**Sec. 22-69. Violations and penalties.**

Any person violating any portion of this Article shall be guilty of an ordinance violation and upon conviction thereof, shall be punished as set forth in section 1-11 of this Code, and as follows:

- (1) First offense: A fine not less than one hundred dollars (\$100.00) or more than one thousand dollars (\$1,000.00) or up to thirty (30) days imprisonment, or both.

- (2) Upon conviction, the court may also order the convicted person to remove any scrap tires that have been accumulated in violation of this Article from the property.

## **ARTICLE V. LITTER CONTROL.**

### **Sec. 22-70. Purpose and Objectives.**

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

- (a) To provide for uniform prohibition of littering on public or private property throughout the City of Stonecrest; and,
- (b) To prevent harm to the public health, safety, environment, and general welfare, including the degradation of water and aquatic resources caused by litter; and,
- (c) To preserve the value of the many unique natural resources in the City and enhance the beauty and quality of life enjoyed by the citizens of the City.

### **Sec. 22-71. Applicability.**

This Article shall apply to all public and private property within the City of Stonecrest, Georgia.

### **Sec. 22-72. Compatibility with Other Regulations.**

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

**Sec. 22-73. Prohibition Against Littering on Public or Private Property or Waters.**

(a) It shall be unlawful for any operator of a conveyance or any person or persons to dump, deposit, throw or leave or to cause or permit the dumping, depositing, placing, throwing or leaving of litter on any public or private property or in any waters within the City of Stonecrest unless:

- (1) The property is designated by the State of Georgia or by any of its agencies or political subdivisions for the disposal of such litter, and such person is authorized by the proper public authority to leave or deposit litter on such property; or
- (2) The litter is placed into an approved receptacle or container installed on such property.

(b) It shall be unlawful for any operator of a conveyance to allow any person to dump, deposit, throw or leave or to cause or permit the dumping, depositing, placing, throwing litter out of any conveyance onto any public or private property or in any waters within the City unless:

- (1) The property is designated by the State of Georgia or by any of its agencies or political subdivisions for the disposal of such litter, and such person is authorized by the proper public authority to leave or deposit litter on such property; or
- (2) The litter is placed into an approved receptacle or container installed on such property.

**Sec. 22-74. Litter Control Responsibilities.**

Owners must place all of their residential solid waste within durable plastic bags and securely tie the plastic bag prior to placing it in an approved receptacle for residential solid waste.

**Sec. 22-75. Vehicle Loads Causing Litter; Commercial Front Loader Containers.**

- (a) No person shall operate any motor vehicle with a load on or in such vehicle unless the load on or in such vehicle is adequately secured to prevent the dropping or shifting of materials from such load onto the roadway.
- (b) All commercial front loader containers must meet all of the following requirements:
  - (1) Containers must be steel, continuously welded and properly reinforced according to manufacturer's specifications;
  - (2) Lids must be constructed of durable plastic and reinforced for strength;
  - (3) The pickup side of the container shall be reinforced inside or outside at the point of torque tub contact;
  - (4) The inside reinforcement of the container shall be pressed steel angle;
  - (5) The bottoms of the containers shall be reinforced with a one-and-one-half-inch (1½") drain plug installed flush to the bottom;
  - (6) All containers shall be primed and finished with enamel and epoxy paint;
  - (7) Body dimensions as to length and height of container can vary with the size of container; however, all container widths shall be seventy (70) inches; and
  - (8) Minimum gauges of steel for such containers shall be as follows:

<b>Walls</b>	12 gauge
<b>Ends</b>	12 gauge
<b>Bottoms</b>	12 gauge for 4 cubic feet and below
	10 gauge for all over 4 cubic feet
<b>Lids</b>	16 gauge
<b>Doors</b>	14 gauge



**Sec. 22-76. Evidence.**

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

**Sec. 22-77. Violations, Enforcement and Penalties.**

- (a) Any person that does anything prohibited or fails to do anything required by this Article, upon conviction of the violation in Municipal Court, shall be subject to fine and/or imprisonment in accordance with Section 1-11. Where any offense or violation continues from day to day, each day's continuance thereof shall be deemed a separate offense.
- (b) Upon conviction of any violation of this Article, the Municipal Court shall impose a fine of not less than two hundred dollars (\$200.00) in addition to any other penalty or punishment imposed by the Court.
- (c) Upon conviction, the Municipal Court may order the convicted person to pick up and remove from any public street or highway or public right-of-way for a distance not to exceed one (1) mile any litter the convicted person has deposited and any and all litter deposited thereon by anyone else prior to the date of the sentence.
- (d) Upon conviction, the Municipal Court may order the convicted person to pick up and remove any and all litter from any public property, private right-of-way, or with prior permission of the legal owner or tenant in

lawful possession of such property, any private property upon which it can be established by competent evidence that he has deposited litter.

Pick up and removal shall include any and all litter deposited thereon by anyone prior to the date of the sentence.

- (e) All City law enforcement agencies and officers are hereby authorized, empowered and directed to enforce compliance with this Article.

**Section 2:**

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

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

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

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

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

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

**SO ORDAINED AND EFFECTIVE** this the \_\_\_\_ day of \_\_\_\_\_, 2018.

STATE OF GEORGIA  
DEKALB COUNTY  
CITY OF STONECREST

ORDINANCE NO. \_\_\_\_\_

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 to Adopt Chapter 22.5 Storm Sewer Illicit Discharge and Illegal Connection of the City Code**

- ORDINANCE**                       **POLICY**                                       **STATUS REPORT**  
 **DISCUSSION ONLY**               **RESOLUTION**                               **OTHER**

**Council Meeting 10/31/2018    Work Session: 11/07/2018    Council Meeting 11/19/2018**

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**SUBMITTED BY: City Attorney**

**PURPOSE: This item is to adopt chapter 22.5 into the City charter for Storm Sewer Illicit Discharge and Illegal Connection**

**HISTORY:**

**FACTS AND ISSUES:**

**OPTIONS:**

**RECOMMENDED ACTION:**

1        **AN ORDINANCE OF THE CITY OF STONECREST, GEORGIA ADOPTING**  
2        **CHAPTER 22.5 (STORM SEWER ILLICIT DISCHARGE AND ILLEGAL**  
3        **CONNECTION) OF THE CITY CODE.**  
4

5        **WHEREAS,** the City of Stonecrest, Georgia Mayor and City Council are authorized by  
6                    the City Charter to provide for the general health, safety and welfare of the  
7                    citizens of the City; and

8  
9        **WHEREAS** the Mayor and City Council find it to benefit the welfare of the citizens to  
10                   provide a standard, regulation and preservation of the City's storm sewer  
11                   system; and

12  
13        **WHEREAS,** this Ordinance shall be adopted as part of the City of Stonecrest City  
14                   Code, as Chapter 22.5 (Storm Sewer Illicit Discharge and Illegal  
15                   Connection).

16  
17        **THEREFORE,** the Mayor and City Council of the City of Stonecrest, Georgia hereby  
18                   ordain as follows:

19  
20        **Section 1:**    The Mayor and City Council of the City of Stonecrest, Georgia,  
21                   hereby adopt an Ordinance designated as "Chapter 22.5. Storm Sewer Illicit  
22                   Discharge and Illegal Connection" to read and be codified as follows:

23  
24                    **CHAPTER 22.5. STORM SEWER ILLICIT DISCHARGE AND ILLEGAL**  
25                    **CONNECTION**

26  
27                    **ARTICLE I. GENERALLY**

28  
29                    **Sec. 22.5-1. Purpose and Intent**

30                    The purpose of this Chapter is to protect the public health, safety,  
31                    environment and general welfare through the regulation of non-stormwater  
32                    discharges to the city municipal separate storm sewer system (city MS4)  
33                    the maximum extent practicable as required by state and federal law. This  
34                    Chapter establishes methods for controlling the introduction of pollutants  
35                    into the city MS4 in order to comply with requirements of the National  
36                    Pollutant Discharge Elimination System (NPDES) permit process. The  
37                    objectives of this Chapter are to:

- 38                    (1)    Protect, maintain, and enhance the short-term and long-term public  
39                    health, safety, and general welfare. This objective will be achieved  
40                    by providing for regulation and management of the city MS4,

- 41 including public and private stormwater conveyances in city's  
42 service area.
- 43 (2) Comply with State EPD and Federal EPA stormwater regulations,  
44 as defined herein, developed pursuant to the Federal Clean Water  
45 Act and the Georgia Water Quality Control Act.
- 46 (3) Control the contribution of pollutants to the city MS4 by  
47 stormwater discharges associated with commercial and industrial  
48 activity and the quality of stormwater discharged from sites of  
49 commercial and industrial activity.
- 50 (4) Prohibit illegal connections to the city MS4.
- 51 (5) Control illicit discharges to the city MS4 of spills, dumping or  
52 disposal of materials other than stormwater.
- 53 (6) Control, through intergovernmental agreements, the contribution of  
54 pollutants from one municipality or county system to another.
- 55 (7) Provide for intergovernmental cooperation in management,  
56 monitoring and enforcement of the city stormwater management  
57 program among the city and the county.

58  
59 **Sec. 22.5-2. Definitions**

60  
61 The following words, terms and phrases, when used in this  
62 Chapter, shall have the meanings ascribed to them in this section, except  
63 where the context clearly indicates a different meaning:

64 *Accidental discharge* means a discharge prohibited by this Chapter  
65 into the city MS4 which occurs by chance and without planning or  
66 consideration prior to occurrence.

67 *Authorized representative* means:

- 68 (1) If the discharger is a business, an owner, partner, corporate  
69 officer or highest ranking employee of the business  
70 employed at the facility from which the discharge or  
71 connection was made;

72 (2) If the discharger is a Federal, State or local government  
73 facility, a director or highest official appointed or  
74 designated to oversee the operation and performance of the  
75 activities of the government facility, or that person's  
76 designee.

77 *Best management practices* or *BMPs* means a wide range of  
78 stormwater management regulations, procedures, engineering designs,  
79 activities, prohibitions or practices which control the quality and/or  
80 quantity of stormwater.

81 *City municipal separate storm sewer system (City MS4)* means a  
82 stormwater conveyance or system of stormwater conveyances that are all  
83 of the following; owned or maintained by the city, as described in Chapter  
84 25; designed or used for collecting or conveying stormwater; is not a  
85 combined sewer; not part of a publicly owned treatment works (POTW);  
86 and not owned or operated by any other government entity.

87 *City stormwater management program* means that program of  
88 activities and procedures for stormwater management as set forth in the  
89 application for the permit, as approved by the State EPD, and any  
90 amendment or modification thereto, including the city stormwater  
91 inspection and maintenance policy and the city stormwater extent of  
92 service/level of service policy.

93 *Construction activity* means activities subject to the Georgia  
94 Erosion and Sedimentation Control Act or NPDES general construction  
95 permits, including but not limited to construction projects resulting in land  
96 disturbance, cleaning and grubbing, grading, excavating, and demolition.

97 *Cooling water* means water used exclusively as a cooling medium  
98 in an appliance, device or apparatus.

99 *Department*, unless otherwise specified, means the Public Works  
100 Department and its divisions which are responsible for stormwater  
101 management activities and implementation of the provisions of this

102 Chapter or such other department as may hereafter be designated to  
103 enforce this Chapter or any portion thereof.

104 *Director* means the Director of Public Works or designee or, when  
105 a department other than the public works department is designated to  
106 enforce provisions of this Chapter or any portion thereof, the director of  
107 such department or designee.

108 *Discharge* means the spill, draining, dumping, deposit, seeping,  
109 disposal, placement, release or loss of any material or substance to the  
110 City MS4.

111 *Discharger* means any person that permits pollutants to enter the  
112 city Municipal Separate Stormwater Sewer System.

113 *Easement* means an acquired legal right for the specific use of land  
114 owned by others.

115 *Federal Clean Water Act* or *Clean Water Act* means the Federal  
116 Water Pollution Control Act, as amended, presently codified at 33 USC  
117 1251 et seq., and all regulations adopted pursuant thereto.

118 *Federal EPA* or *EPA* means the United States Environmental  
119 Protection Agency.

120 *Georgia Water Quality Control Act* or *Water Quality Control Act*  
121 means the Georgia Quality Control Act, as amended, presently codified at  
122 O.C.G.A. § 12-5-20 et seq., and all regulations adopted pursuant thereto.

123 *Groundwater* means water beneath the earth's surface between  
124 saturated soil and rock.

125 *Illegal connection* means either of the following:

- 126 (1) Any pipe, open channel, drain or conveyance, whether on  
127 the surface or subsurface, which allows an illicit discharge  
128 to enter the storm drain system including, but not limited to  
129 any conveyances which allow any non-stormwater  
130 discharge including sewage, process wastewater, and wash  
131 water to enter the storm drain system, regardless of whether



132 such pipe, open channel, drain or conveyance has been  
133 previously allowed, permitted, or approved by a federal,  
134 state or local law enforcement agency; or

135 (2) Any pipe, open channel, drain or conveyance connected to  
136 the City MS4 which has not been documented in plans,  
137 maps, or equivalent records and approved by an authorized  
138 local, State or Federal enforcement agency.

139 *Illicit discharge* means any direct or indirect non-stormwater  
140 discharge to the City MS4, except as exempted in Article 3 of this  
141 Chapter.

142 *Industrial activity* means activities subject to NPDES industrial  
143 permits as defined in 40 CFR 122.6(b)(14), as amended.

144 *Maintenance* means any action necessary to preserve stormwater  
145 conveyances in proper working condition, in order to serve the intended  
146 purposes set forth in this Chapter or to prevent structural failure of such  
147 conveyances.

148 *National Pollutant Discharge Elimination System (NPDES)*  
149 *stormwater discharge permit* means a permit issued by the state EPD  
150 under the authority delegated pursuant to 33 USC 1342(b) that authorizes  
151 the discharge of pollutants to waters of the United States, whether the  
152 permit is applicable to an individual, group, or general area.

153 *Non-stormwater discharge* means any discharge to the storm drain  
154 system that is not composed entirely of stormwater.

155 *Permit* means the National Pollution Discharge Elimination  
156 System permit for discharges issued by the State EPD on or about June 15,  
157 1994, or such subsequent permit or authorization for discharges from the  
158 City MS4 to waters of the State.

159 *Person* means any and all persons, natural or artificial, and  
160 includes any individual, firm, corporation, government agency, business

161 trust, estate, trust, partnership, association, two or more persons having a  
162 joint or common interest, or any other legal entity.

163 *Pollutant* means anything that causes or contributes to pollution.  
164 Pollutants include, but are not limited to: paints, varnishes, and solvents;  
165 petroleum hydrocarbons; automotive fluids; cooking grease; detergents  
166 (biodegradable or otherwise); degreasers; cleaning chemicals; non-  
167 hazardous liquid and solid wastes and yard wastes; refuse, rubbish,  
168 garbage, litter, or other discarded or abandoned objects and accumulations,  
169 such that the same may cause or contribute to pollution; floatables;  
170 pesticides, herbicides, and fertilizers; liquid and solid wastes; sewage,  
171 fecal coliform and pathogens; dissolved and particulate metals; animal  
172 wastes; wastes and residues that result from constructing a building or  
173 structure; and concrete and cement.

174 *Pollution or polluted* means the contamination or other alteration  
175 of any water's physical, chemical or biological properties, including, but  
176 not limited to, change in temperature, taste, color, turbidity, or odor of  
177 such waters; or the discharge of any liquid, gaseous, solid, radioactive, or  
178 other substance into the City MS4 as will or is likely to create a nuisance  
179 or render any waters contained therein or discharged into waters of the  
180 state harmful, detrimental or injurious to the public health, safety or  
181 general welfare or to domestic, commercial, industrial, agricultural,  
182 recreational, or other legitimate beneficial uses, or to livestock, wild  
183 animals, birds, fish or other aquatic life.

184 *Premises* means any building, lot, parcel of land, or portion of land  
185 whether improved or unimproved including adjacent sidewalks and  
186 parking strips.

187 *Private* means property or stormwater conveyances owned by  
188 individuals, corporations, and other organizations and not by City, County,  
189 State or Federal governments.

190                    *Procedure* means a procedure adopted by the Department to  
191                    implement a regulation or regulations adopted under this Chapter, or to  
192                    carry out other responsibilities as may be required by this Chapter or other  
193                    Chapters of this Code, or other ordinances or resolutions of the City or  
194                    other agencies.

195                    *Regulation* means any regulation, rule, development standard, or  
196                    other requirement prepared by the Department and adopted by the City  
197                    Council pursuant to the requirements of this Chapter.

198                    *Sanitary sewer system* means the complete sanitary sewer system  
199                    which discharges sanitary sewerage directly or indirectly into the sewage  
200                    treatment plant, including sanitary sewer pipelines, manholes and flushing  
201                    inlets and appurtenances to the foregoing, but shall exclude any portion or  
202                    facilities of the sewage treatment plant.

203                    *Site* means any lot, plot, parcel or tract of land.

204                    *State EPD* or *EPD* means the Environmental Protection Division  
205                    of the State Department of Natural Resources.

206                    *State waters* means any and all rivers, streams, creeks, branches,  
207                    lakes, reservoirs, ponds, drainage systems, springs, wells, and other bodies  
208                    of surface and subsurface water, natural or artificial, lying within or  
209                    forming a part of the boundaries of the state which are not entirely  
210                    confined and retained completely upon the property of a single person.

211                    *Stormwater* means any surface flow, runoff, and drainage  
212                    consisting entirely of water from any form of natural precipitation, and  
213                    resulting from such precipitation.

214                    *Stormwater conveyance* means natural or constructed stormwater  
215                    conduits, features, facilities or best management practices designed or  
216                    used for the collection, conveyance or treatment of stormwater through  
217                    open or closed drainage systems, including, but not limited to, pipes,  
218                    ditches, depressions, swales, roads with drainage systems, highways,  
219                    rights-of-way, streets, catch basins, curbs, gutters, ditches, manmade

220 channels, storm drains, detention ponds, retention ponds, infiltration  
221 devices, oil/water separators, sediment basins, or other such devices.

222 *Stormwater discharge associated with industrial activity* means the  
223 discharge from any stormwater conveyance which is directly related to  
224 manufacturing, processing or raw materials storage areas at an industrial  
225 facility. The term "stormwater discharge associated with industrial  
226 activity" includes, but is not limited to, stormwater discharges from  
227 industrial facility yards; immediate access roads and rails lines used or  
228 traveled by carriers of raw materials, manufactured products, waste  
229 materials or by-products used or created by the facility; material handling  
230 sites; refuse sites; sites used for the storage and maintenance of material  
231 handling equipment; sites used for application or disposal of process  
232 wastewater; sites used for residual treatment, storage, or disposal; shipping  
233 and receiving areas; manufacturing buildings; storage areas (including  
234 tank farms for raw materials, and intermediate and finished products) and  
235 areas where industrial activity has taken place in the past and significant  
236 materials remain and are exposed to stormwater.

237 *Stormwater management* means the collection, conveyance,  
238 storage, treatment and disposal of stormwater in a manner to meet the  
239 objectives of this Chapter and which shall include a system of vegetative  
240 or structural measures, or both, that control the increased volume and rate  
241 of stormwater and water quality impacts caused by manmade changes to  
242 the land.

243 *Stormwater runoff* means any surface flow, runoff, and drainage  
244 consisting entirely of water from any form of natural precipitation, and  
245 resulting from such precipitation.

246 *Structural stormwater control* means a structural stormwater  
247 management facility or device that controls stormwater runoff and  
248 changes the characteristics of that runoff including, but not limited to, the  
249 quantity and quality, the period of release or the velocity of flow.

250                    *Unpolluted* means the absence of pollution.

251                    *Water quality* means those characteristics of stormwater that relate  
252 to the physical, chemical, biological or radiological integrity of water.

253                    *Water quantity* means those characteristics of stormwater that  
254 relate to the rate and volume of the stormwater.

255

256                    **Sec. 22.5-3. Cooperation with Other Governments.**

257                    The City may enter into agreements with other local governments to carry  
258 out the purposes of this Chapter, comply with the provisions of the permit,  
259 and to implement the city stormwater management program. These  
260 agreements may include, but are not limited to, agreements regarding  
261 enforcement of provisions, resolution of disputes cooperative stormwater  
262 management programs and cooperative monitoring, maintenance,  
263 enforcement and management of municipal separate storm sewer systems,  
264 or other action as may be needed to control the contribution of pollutants  
265 and between any municipal system and the City MS4.

266                    **Sec. 22.5-4 - Sec. 22.5-19. Reserved.**

267

268                    **ARTICLE II. POWERS.**

269                    **Sec. 22.5-20. Scope of Regulation.**

270

271                    (a)    The provisions of this Chapter shall apply throughout the  
272 geographic boundaries of the city to any developed and  
273 undeveloped land unless expressly exempted.

274                    (b)    The Director, acting through the Department, shall be responsible  
275 for the coordination and enforcement of the provisions of this  
276 Chapter.

277                    (c)    The Director, acting through the Department, shall be responsible  
278 for the conservation, management, maintenance (where  
279 applicable), extension and improvement of the City MS4,  
280 including activities necessary to control stormwater discharges,

281 and activities necessary to carry out stormwater management  
282 programs included in the permit.

283 (d) The provisions of this Chapter shall be the minimum stormwater  
284 management requirements and shall not be deemed a limitation or  
285 repeal of any other powers or authority granted by Federal, State or  
286 local law or ordinance.

287

288 **Sec. 22.5-21. Powers of the Department.**

289 (a) The Department shall have the power to administer and enforce all  
290 regulations and procedures adopted to implement this Chapter,  
291 including the right to maintain an action or proceeding in any court  
292 of competent jurisdiction to compel compliance with or restrain  
293 any violation of this Chapter, or to seek recovery of damages, fees  
294 or costs.

295 (b) The Department can:

296 (1) Administer, coordinate and oversee conservation,  
297 acquisition, extension, improvement, design, construction,  
298 management, operation and maintenance of the City MS4;

299 (2) Establish or oversee establishment of regulations for  
300 control, management, and enhancement of the quality or  
301 quantity of stormwater and establish procedures and  
302 guidelines to implement such regulations;

303 (3) Determine the manner in which stormwater conveyances  
304 should be operated;

305 (4) Inspect and enforce private stormwater conveyances which  
306 discharge to the City MS4;

307 (5) Advise the City Council and other City Departments or  
308 agencies on issues related to stormwater;

- 309 (6) Protect the City MS4 and stormwater conveyances and  
310 properties owned or maintained by City and prescribe how  
311 they are used by others;
- 312 (7) Require new, increased, or significantly changed  
313 stormwater discharges to the City MS4 to comply with the  
314 terms of this Chapter, including regulations and procedures  
315 adopted pursuant thereto, with respect to the installation of  
316 stormwater conveyances or best management practices;
- 317 (8) Develop programs or procedures to control the discharge of  
318 pollutants into the City MS4;
- 319 (9) Develop, adopt and implement the city stormwater  
320 management program, including the city stormwater  
321 inspection and maintenance policy and the city stormwater  
322 extent of service/level of service policy; and
- 323 (10) Comply with Federal and State regulations and permits  
324 concerning the city MS4.

325 **Sec. 22.5-22 – Sec. 22.5-39. Reserved.**

326  
327  
328 **ARTICLE III. REGULATED STORMWATER DISCHARGES**

329  
330 **Sec. 22.5-40. Regulation of Quantity of Stormwater Discharges.**

331 The quantity of stormwater discharges to the City MS4 shall be regulated  
332 as set forth in applicable City ordinances and Code provisions.

333  
334 **Sec. 22.5-41. Prohibited and Illicit Discharges.**

335 It is unlawful for any person to discharge or to cause, permit, or suffer to  
336 be discharged any pollutants or any water or stormwater containing any  
337 pollutants to any component of the City MS4. Such discharge shall be  
338 deemed an illicit discharge and constitutes a violation of the provisions of  
339 this Chapter.  
340  
341

342           **Sec. 22.5-42. Prohibited and Illegal Connections.**

343           (a)     It is unlawful for any person to connect a stormwater conveyance  
344                     of any type that discharges any matter of any nature that is not  
345                     composed entirely of stormwater or such unpolluted water as  
346                     exempted in accordance with the provisions of Section 22.5-43.  
347           Such connection shall be deemed an illegal connection and  
348           constitute a violation of the provisions of this Chapter.

349           (b)     Illegal connections must be disconnected and redirected  
350                     immediately, as necessary and appropriate, to the sanitary sewer  
351                     system upon approval of the authority having jurisdiction to  
352                     provide sanitary sewer service within the City. Any such  
353                     redirection to the sanitary sewer system must be in compliance  
354                     with the applicable provisions of this Code, State and Federal law  
355                     and regulations.

356           (c)     The prohibition against illegal connections expressly includes,  
357                     without limitation, illegal connections made in the past, regardless  
358                     of whether the connection was permissible under law or practices  
359                     applicable or prevailing at the time of connection.

360           (d)     Any drain or conveyance that has not been documented in the  
361                     city's plans or maps, and which is illegally connected to the City  
362                     MS4, shall be relocated immediately by the owner or occupant of  
363                     that property upon receipt of written notice of violation from the  
364                     Director requiring that such relocation be completed.

365

366           **Sec. 22.5-43. Exemptions from Prohibitions on Illicit Discharges and**  
367           **Illegal Connections.**

368

369           (a)     The following categories of discharges and connections are exempt  
370                     from the prohibitions set forth in sections 22.5-40 and 22.5-41  
371                     unless the Director determines that the following discharge or  
372                     connection is a significant source of pollution:



- 373 (1) Water line flushing performed or approved by the Director  
374 and other unpolluted discharges from potable water  
375 sources;
- 376 (2) Landscape irrigation and lawn watering;
- 377 (3) Uncontaminated pumped ground water;
- 378 (4) Diverted stream flows;
- 379 (5) Rising ground water;
- 380 (6) Groundwater infiltration to the City MS4;
- 381 (7) Water from foundation and footing drains (not including  
382 active groundwater dewatering systems) crawl space  
383 pumps, and air conditioning condensation;
- 384 (8) Springs;
- 385 (9) Individual residential car washing where biodegradable  
386 soap is used;
- 387 (10) Natural flows from riparian habitats and wetlands;
- 388 (11) Unpolluted dechlorinated swimming pool discharges;
- 389 (12) Flows from firefighting; or
- 390 (13) Other water not containing pollutants.
- 391 (b) In the event that the Director determines a discharge or connection  
392 to constitute a significant source of pollution, then the Director  
393 shall notify the discharger that the discharge or connection is  
394 prohibited by the terms of this Chapter, and the discharger shall be  
395 required to immediately cease the illicit discharge or disconnect  
396 the illegal connection.
- 397 (c) The discharger, after notice, shall immediately cease the illicit  
398 discharge or disconnect the illegal connection and bring any  
399 discharge or connection to the City MS4 into compliance with the  
400 applicable provisions of this Chapter.
- 401 (d) This section shall not apply to any non-stormwater discharge  
402 permitted under an NPDES permit or order issued to the discharger

403 and administered under the authority of the State and the EPA,  
404 provided that the discharger is in full compliance with all the  
405 requirements of the permit, waiver, or order and other applicable  
406 laws and regulations. The discharger must supply the Director with  
407 a copy of the NPDES permit or order.

408

409 **Sec. 22.5-44. Stormwater Discharges Associated with Industrial or**  
410 **Construction Activity.**

411

412 (a) Discharges of stormwater associated with industrial activities or  
413 construction activities must comply with the permit requirements  
414 of the NPDES program for stormwater discharges and the  
415 regulations in chapter 14. Specific dischargers of stormwater  
416 associated with industrial or construction activity are responsible  
417 for submitting a permit application to the state EPD.

418 (b) A copy of the permit application shall be submitted to the Director.

419 (c) Discharges of stormwater associated with industrial or construction  
420 activity must comply with all provisions of this Chapter for any  
421 discharges which are made to the City MS4.

422

423 **Sec. 22.5-45. Appeal of Denial of Exemption.**

424 (a) Any person aggrieved by the determination of the Director that a  
425 discharge or connection, otherwise exempted under the provisions  
426 of section 22.5-43, is a significant source of pollution may file with  
427 the Director a notice of appeal of such determination to the  
428 Construction Board of Appeals. The notice of appeal must be in  
429 writing and received within 15 days of receipt of the notice of the  
430 determination from the Director that such discharge or connection  
431 constitutes a source of pollution. The notice of appeal must set  
432 forth the reasons that the person believes that the determination of  
433 the Director should be rescinded.

434 (b) An appeal shall be sustained only upon the express written finding  
435 by the Construction Board of Appeals that the Director's action  
436 was based on an erroneous finding of a material fact, or that the  
437 Director acted in an arbitrary manner. In exercising its powers, the  
438 Construction Board of Appeals may reverse or affirm, wholly or  
439 partly, or may modify the order, requirement, decision or  
440 determination appealed from, and to that end shall have all the  
441 powers of the Director from whom the appeal was taken and may  
442 issue or direct the issuance of an exemption provided all  
443 requirements imposed by all applicable laws are met. The  
444 Construction Board of Appeals may also remand any appeal for the  
445 receipt of additional information.

446 (c) The fact that a person has appealed the determination of the  
447 Director shall not delay or otherwise hinder any notice of violation,  
448 citation or other enforcement action or proceeding brought by the  
449 Director to enforce the provisions of this Chapter after notice of  
450 the determination.

451 (d) Appeals from the decision of the Construction Board of Appeals  
452 shall be by writ of certiorari to the superior court of the county.

453

454 **Sec. 22.5-46. Notification of Accidental Discharges and Spills.**

455 (a) Notwithstanding other requirements of law, as soon as any person  
456 responsible for a facility, activity or operation, or responsible for  
457 emergency response for a facility, activity or operation has  
458 information of any known or suspected release of pollutants or  
459 non-stormwater discharges from that facility or operation which  
460 are resulting or may result in illicit discharges or pollutants  
461 discharging into stormwater, the City's separate storm sewer  
462 system, state waters, or waters of the U.S., the person shall take all

463 necessary steps to ensure the discovery, containment, and cleanup  
464 of such release so as to minimize the effects of the discharge.

465 (b) Said person shall notify the authorized enforcement agency in  
466 person or by phone, facsimile or in person no later than 24 hours of  
467 the nature, quantity and time of occurrence of the discharge.  
468 Notifications in person or by phone shall be confirmed by written  
469 notice addressed and mailed to the City Public Works Department  
470 within three (3) business days of the phone or in person notice. If  
471 the discharge of prohibited materials emanates from a commercial  
472 or industrial establishment, the owner or operator of such  
473 establishment shall also retain an on-site written record of the  
474 discharge and the actions taken to prevent its recurrence. Such  
475 records shall be retained for at least three (3) years. Said person  
476 shall also take immediate steps to ensure no recurrence of the  
477 discharge or spill.

478 (c) In the event such a release of hazardous materials, emergency  
479 response agencies and/or other appropriate agencies shall be  
480 immediately notified.

481 (d) Failure to provide notification of a release as provided in this  
482 section is a violation of this Chapter.

483 **Sec. 22.5-47 – 22.5-59. Reserved.**

484

485 **ARTICLE IV. MAINTENANCE.**

486

487 **Sec. 22.5-60. Stormwater Conveyances; Ownership, Inspection and**  
488 **Public Access.**

489

490 (a) All stormwater conveyances shall be privately owned and  
491 maintained, unless accepted for public ownership and  
492 maintenance by the City.

493 (b) The City may require dedication of privately owned stormwater  
494 conveyances which discharge to the City MS4.

495 (c) Owners of stormwater conveyances that discharge to the City  
496 MS4 shall maintain a perpetual non-exclusive easement that  
497 allows for monitoring, inspection and emergency maintenance by  
498 the City.

499 (d) Where stormwater conveyances are accepted by the City for  
500 maintenance, public access easements shall be provided by the  
501 property owner to the City and recorded in the real property  
502 records of City.

503 **Sec. 22.5-61 – 22.5-79. Reserved.**

504

505 **ARTICLE V. INVESTIGATION AND INSPECTION**

506

507 **Sec. 22.5-80. Investigation.**

508 The Department shall have authority to investigate any apparent  
509 violation of any provision of this Chapter and to take any action  
510 authorized by this Chapter which it deems necessary to enforce the  
511 provisions of this Chapter.

512

513 **Sec. 22.5-81. Inspection and Right of Entry.**

514 (a) The Director or designee may inspect any stormwater conveyance  
515 within or outside of an existing drainage easement.

516 (b) The Director or designee, bearing proper credentials and  
517 identification, and in accordance with State and Federal law, shall  
518 be permitted to enter private or public property at reasonable  
519 times to inspect or investigate conditions relating to the  
520 enforcement of this Chapter, the investigation of any apparent  
521 violation of any provision of this Chapter, compliance with the  
522 terms of the permit, observation, measurement, sampling or  
523 testing with respect to the City stormwater management program  
524 or compliance with the permit, and periodic investigations in  
525 accordance with provisions of this Chapter. The Director or

- 526                   designee shall notify the owner of the property or the  
527                   representative on-site, except in the case of an emergency.
- 528           (c)     The Director or designee, bearing proper credentials and  
529                   identification, and in accordance with State and Federal law, shall  
530                   be permitted to enter private or public property at reasonable  
531                   times for repairs, maintenance and other similar purposes related  
532                   to any portion of the City MS4. The Director or designee shall  
533                   notify the owner of the property or the representative on-site,  
534                   except in the case of an emergency.
- 535           (d)     The Director or designee, in addition to other procedures  
536                   provided, may obtain an inspection warrant for the purpose of  
537                   inspection or investigation of conditions relating to the  
538                   enforcement of this Chapter, compliance with the terms of the  
539                   permit, or observation, measurement, sampling or testing with  
540                   respect to the City stormwater management program or the  
541                   permit, and periodic investigations in accordance with the  
542                   provisions of this Chapter.
- 543                   (1)    Inspection warrants may be issued by the Municipal Court  
544                            when the issuing judge is satisfied that the Director or  
545                            designee has established by oath or affirmation that the  
546                            property to be inspected is to be inspected as a part of a  
547                            legally authorized program of inspection that includes the  
548                            property or that there is probable cause for believing that  
549                            there is a condition, object, activity, or circumstance  
550                            which legally justifies such an inspection of the property.
- 551                   (2)    An inspection warrant will be validly issued only if it  
552                            meets the following requirements:
- 553                            a.     The warrant is attached to the affidavit required to  
554                                    be made in order to obtain the warrant.

- 555                   b.     The warrant describes, either directly or by  
556                             reference to the affidavit, the property upon which  
557                             the inspection is to occur and is sufficiently  
558                             accurate that the executor of the warrant and the  
559                             owner or occupant of the property or discharger  
560                             can reasonably determine from it the property for  
561                             which the warrant authorizes an inspection.
- 562                   c.     The warrant indicates the conditions, objects,  
563                             activities or circumstances which the inspection is  
564                             intended to check or reveal.
- 565                   d.     The warrant refers, in general terms, to the code  
566                             provisions sought to be enforced.
- 567                   e.     Measurements, samples, tests and analyses  
568                             performed by the City or required of any  
569                             discharger to the City MS4 shall be in accordance  
570                             with 40 CFR 136, unless another method is  
571                             approved by the Director.

572  
573

**Sec. 22.5-82. Emergency Powers.**

- 574           (a)     If, after inspection, the condition of a stormwater conveyance  
575                             presents an immediate danger to the public health, safety or  
576                             general welfare because of unsafe conditions or improper  
577                             maintenance, the City shall have the right to take action as may  
578                             be necessary to protect the public health, safety and general  
579                             welfare and make the stormwater conveyance safe.
- 580           (b)     The Department may conduct emergency maintenance or  
581                             remediation operations on private property and on private  
582                             stormwater conveyances. Emergency maintenance or remediation  
583                             operations shall constitute actions to remedy conditions that in

584 the opinion of the Director create a condition potentially injurious  
585 to life, property or the City MS4.

586 (c) Emergency maintenance conducted on any stormwater  
587 conveyance shall not be construed as constituting a continuing  
588 maintenance obligation on the part of the City.

589

590 **Sec. 22.5-83. Authority to Require Person to Cooperate with**  
591 **Department.**

592

593 Whenever required to carry out the objectives of this Chapter,  
594 including but not limited to obtaining information regarding permit  
595 compliance, implementing the City stormwater management program, or  
596 determining whether any person is in violation of any provision of this  
597 Chapter, the Director or designee may in writing require a discharger to  
598 the City MS4 to:

599

(1) Establish and maintain records;

600

(2) Make reports;

601

(3) Install, use, and maintain monitoring equipment or  
602 methods, including where appropriate, biological  
603 monitoring methods;

604

(4) Sample such discharges, in accordance with such  
605 methods, at such locations, at such intervals, and in such  
606 manner as the Director shall prescribe; and

607

(5) Provide such other information as he may reasonably  
608 require.

609

610

**Sec. 22.5-84 – 22.5-99. Reserved.**

611

612

613

**ARTICLE VI. PENALTIES AND ENFORCEMENT.**

614

615

**Sec. 22.5-100. Notice of Violations and Summons.**



- 616 (a) Whenever the Director or designee determines that a violation of  
617 this Chapter or regulations and procedures adopted thereto has  
618 occurred, the Director or designee shall serve upon the discharger  
619 a notice of violation. The notice of violation shall be in writing,  
620 include a description of the property sufficient for identification  
621 of where the violation has occurred, list the provisions of this  
622 Chapter which have been violated, and state that, if the violation  
623 is not remedied within a specified reasonable time to be  
624 determined by the Director or designee, a summons shall be  
625 issued for the discharger to appear in Municipal Court. The notice  
626 of violation shall set forth the potential penalty involved and the  
627 fact that each day the violation continues shall constitute a new  
628 and separate violation.
- 629 (b) Notwithstanding the foregoing, the Director or designee may  
630 issue a summons to appear in Municipal Court without first  
631 issuing a notice of violation if, in the judgment of the Director,  
632 the illicit discharge or illicit connection was not an accidental  
633 discharge or if the violation constitutes a threat to the public  
634 health, safety, general welfare, or the City MS4.
- 635 (c) If the violation has not been remedied within the time specified in  
636 the notice of violation, the Director or designee shall issue a  
637 summons to the discharger to appear in Municipal Court. The  
638 summons shall be in writing, include a description of the property  
639 sufficient for identification of where the violation has occurred,  
640 list the provisions of this Chapter which have been violated, set  
641 forth the penalty if the discharger is convicted of the violation,  
642 and state that each day the violation continues shall constitute a  
643 new and separate violation.
- 644 (d) Nothing in this section shall limit the authority of the Director or  
645 designee to take any action, including emergency actions or any

646 other enforcement action, without first issuing a notice of  
647 violation.

648

649 **Sec. 22.5-101. Submission of Corrective Plan.**

650 (a) Within ten (10) business days of conviction by Municipal Court  
651 or resolution of any appeal, the discharger shall submit to the  
652 Director a plan for the satisfactory correction of the violation,  
653 including corrective and preventive procedures, and  
654 implementation of best management practices, where necessary  
655 to prevent recurrence.

656 (b) Submission of this plan in no way relieves the discharger of  
657 liability for any violations occurring after conviction for the  
658 violation. The failure to submit this plan as required by this  
659 section shall constitute a separate violation of this Chapter.

660

661 **Sec. 22.5-102. Cease and Desist Order.**

662 When the Director finds that a discharger has violated, or continues  
663 to violate, any provision of this Chapter or that the discharger's past  
664 violations are likely to recur, the Director or designee may issue an order  
665 to the discharger directing the discharger to cease and desist all such  
666 violations and to:

667 (1) Immediately comply with the provisions of this Chapter;

668 (2) Take such appropriate remedial or preventive action as  
669 may be needed to properly address a continuing or  
670 threatened violation and to prevent recurrence of the  
671 violation; and

672 (3) Each day of violation of a cease and desist order, after  
673 notice thereof, shall constitute a separate violation of this  
674 Chapter.

675

676           **Sec. 22.5-103. Penalties.**

677           (a)    Any discharger who does anything prohibited or fails to do  
678                    anything required by the provisions of this Chapter shall be guilty  
679                    of a violation of this Chapter and, upon conviction in Municipal  
680                    Court, shall be subject to a fine or imprisonment, or both.  
681                    Violation of the provisions of this Chapter constitutes an  
682                    infraction subject to a penalty not to exceed \$1,000.00 or 120  
683                    days' imprisonment or both per violation for each day of the  
684                    violation.

685           (b)    Nothing in this section shall prevent the City from taking such  
686                    other lawful action as is necessary to prevent or remedy any  
687                    violation.

688

689           **Sec. 22.5-104. Injunctive Proceedings.**

690           (a)    The City may institute appropriate action or proceedings at law or  
691                    equity for the enforcement of this Chapter or to correct violations  
692                    of this Chapter. Any court of competent jurisdiction may have the  
693                    right to issue restraining orders, temporary or permanent  
694                    injunctions, and other appropriate forms of remedy or relief  
695                    which restrains the violation or compels the requirements  
696                    imposed by this Chapter on activities of the discharger. The City  
697                    may also seek such other action as is appropriate for legal and/or  
698                    equitable relief, including a requirement for the discharger to  
699                    conduct environmental remediation. A petition for injunctive  
700                    relief shall not be a bar against, or a prerequisite for, taking any  
701                    other action against a discharger.

702           (b)    The City may recover reasonable attorneys' fees, court costs, and  
703                    other expenses associated with enforcement activities, including  
704                    sampling and monitoring expenses, environmental impacts  
705                    assessments, geotechnical work, and the costs of any actual

706 damages incurred by the City, including, but not limited to, costs  
707 of containment and cleanup.

708

709 **Sec. 22.5-105. Civil Damages and Violations.**

710 (a) If a discharger has violated, or continues to violate, any provision  
711 of this Chapter, the City may file a civil damage action against  
712 the discharger, through the City Attorney, seeking such damages,  
713 fees and costs as are permitted by law.

714 (b) In addition to the enforcement processes and penalties provided  
715 herein, any condition caused or permitted to exist in violation of  
716 any of the provisions of this Chapter is a threat to public health,  
717 safety, welfare, and environment and is declared and deemed a  
718 nuisance, the violation may be abated by injunctive or other  
719 equitable relief as provided by law.

720 (c) The remedies listed in this Chapter are not exclusive of any other  
721 remedies available under any applicable Federal, State or local  
722 law and City may pursue cumulative remedies.

723

724 **Sec. 22.5-106 – 22.5-119. Reserved.**

725

726 **Section 2:**

727

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

732

733 2. It is hereby declared to be the intention of the Mayor and City Council that, to the  
734 greatest extent allowed by law, each and every section, paragraph, sentence,  
735 clause or phrase of this Ordinance is severable from every other section,  
736 paragraph, sentence, clause or phrase of this Ordinance. It is hereby further  
737 declared to be the intention of the Mayor and City Council that, to the greatest  
738 extent allowed by law, no section, paragraph, sentence, clause or phrase of this

739 Ordinance is mutually dependent upon any other section, paragraph, sentence,  
740 clause or phrase of this Ordinance.

741  
742 3. In the event that any phrase, clause, sentence, paragraph or section of this  
743 Ordinance shall, for any reason whatsoever, be declared invalid, unconstitutional  
744 or otherwise unenforceable by the valid judgment or decree of any court of  
745 competent jurisdiction, it is the express intent of the Mayor and City Council that  
746 such invalidity, unconstitutionality, or unenforceability shall, to the greatest extent  
747 allowed by law, not render invalid, unconstitutional or otherwise unenforceable  
748 any of the remaining phrases, clauses, sentences, paragraphs or sections of the  
749 Ordinance and that, to the greatest extent allowed by law, all remaining phrases,  
750 clauses, sentences, paragraphs and sections of the Ordinance shall remain valid,  
751 constitutional, enforceable, and of full force and effect.

752  
753 4. All ordinances or resolutions and parts of ordinances or resolutions in conflict  
754 herewith are hereby expressly repealed.

755  
756 5. The within ordinance shall become effective upon its adoption.

757  
758 6. The provisions of this Ordinance shall become and be made part of The Code of  
759 the City of Stonecrest, Georgia, and the sections of this Ordinance may be  
760 renumbered to accomplish such intention.

761  
762 **SO ORDAINED AND EFFECTIVE** this the \_\_\_\_ day of \_\_\_\_\_,  
763 2018.

764  
765  
766

Approved:

767  
768  
769  
770

\_\_\_\_\_  
Jason Lary, Sr., Mayor

771  
772  
773  
774

As to form:

775  
776  
777

\_\_\_\_\_  
Thompson Kurrie, Jr., City Attorney

778 Attest:

779  
780  
781

\_\_\_\_\_  
Brenda James, City Clerk



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## Variance(s) and Administrative Variances Application

This application applies to:

- Variances
- Administrative Variances

If an applicant needs to further relax the dimensional standards of the Zoning Ordinance for a specific property for the purpose of construction, they can request a variance to the text of the Zoning Ordinance. Such a request might seek to modify the strict terms of lot coverage, placement, setback, yard, buffer, landscape strip, parking and loading or other regulations, but such an application may not occur concurrently with a land use map amendment or modification of conditions, and the approval of one does not indemnify the approval of the other. The Zoning Board of Appeals shall determine whether the requested variance or special exception meets the applicable requirements. The Community Development Director shall determine whether the requested administrative variance meets the applicable requirements.

The variance process for the City of Stonecrest involves one public hearing before the Zoning Board of Appeals, where the item will be heard and a decision will be made based on the applicant's submittal information and the report generated by city staff. The Zoning Board of Appeals meets the third Wednesday of each month at 6:00 PM. in the Stonecrest City Hall, located at 3120 Stonecrest Blvd. Stonecrest, GA 30038.

The Community Development Director will issue a decision within 30 days for general administrative variance requests. The decision date begins after the date of application acceptance by city staff. Notices will be sent to neighboring property owners for comment. To city staff during the required 15-day public comment period and 45 days for administrative variances related to Stream Buffers.

Some aspects of development are **not** allowed to be varied, including requests that would:

- Allow a structure or use not authorized in the applicable zoning district or a density of development that is not authorized within such district;
- Allow an increase in maximum height of building;
- Allow any variance which conflicts with or changes any requirement enacted as a condition of zoning or of a special land use permit by the city council;
- Vary the requirements of Chapter 21 for an off premises sign which decreases the applicable development standard by thirty (30) percent or more, or to grant more than two (2) variances for a specific parcel of property for an off-premises sign during a five-year period of time;
- Reduce, waive or modify in any manner the minimum lot width and minimum lot area where the lot has been conditionally zoned to a specific site plan or the minimum lot area of any zoning district;



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- f) Reduce, waive or modify in any manner the minimum lot area established by the city council for any use permitted by special land use permit or by special exception;
- g) Extend the time period for a temporary outdoor social, religious, entertainment or recreation activity approved by the Community Development Department director;

To initiate a request for a Variance or within the City of Stonecrest, an applicant must schedule and hold a pre-application meeting with the Planning & Zoning staff, which must take place by the deadline of 4pm on the Friday preceding the application submission deadline on the first Wednesday of the month. These meetings are scheduled as needed and the purpose of the pre-application meeting is to establish an expectation on the part of both staff and the applicant for the zoning appeal process. The applicant shall provide preliminary/finalized site plans, a letter of intent regarding the request, and/or other illustrative documents as necessary at the time of the pre-application meeting. The applicant will then provide an overview of their proposed application and their reasoning for why the application is necessary. Staff can then inform the applicant of the City's process to effect the proposed change, and offer a preliminary analysis of the feasibility of the proposal, including ways upon which the proposal may need improvements or revisions.

Following the pre-application meeting, applicants can submit their application and required supplemental materials (detailed in the following checklist) by the deadline of 4pm on the first Wednesday of each month to:

City of Stonecrest  
Community Development Department  
3120 Stonecrest Blvd.  
Stonecrest, GA 30038



**CITY COUNCIL AGENDA ITEM**

**SUBJECT: An Ordinance Adopting Chapter 25 Water, Sewer and Sewage Disposal of the City Code**

- ORDINANCE**                       **POLICY**                       **STATUS REPORT**  
 **DISCUSSION ONLY**             **RESOLUTION**               **OTHER**

**Council Meeting 10/31/2018    Work Session: 11/07/2018    Council Meeting 11/19/2018**

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**SUBMITTED BY: City Attorney**

**PURPOSE:**    This item is to adopt chapter 25 into the City charter for Water, Sewer and Sewage Disposal

**HISTORY:**

**FACTS AND ISSUES:**

**OPTIONS:**

**RECOMMENDED ACTION:**



STATE OF GEORGIA  
DEKALB COUNTY  
CITY OF STONECREST

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE OF THE CITY OF STONECREST, GEORGIA ADOPTING  
CHAPTER 25 (WATER, SEWERS AND SEWAGE DISPOSAL) OF THE CODE OF THE  
CITY OF STONECREST, GEORGIA.**

**WHEREAS**, the City of Stonecrest, Georgia Mayor and City Council are authorized by the City Charter to provide for the general health, safety and welfare of the citizens of the City; and

**WHEREAS** the Mayor and City Council find it to benefit the welfare of the citizens and the City, and in conjunction with an intergovernmental agreement between the City of Stonecrest and DeKalb County for the provision of water, sewer and sewage disposal services, to adopt regulations governing water, sewer and sewage disposal that substantially mirror DeKalb County's existing regulations; and

**WHEREAS**, this Ordinance shall be adopted as part of the Code of the City of Stonecrest, Georgia as Chapter 25 (Water, Sewers and Sewage Disposal).

**THEREFORE, BE IT AND IT IS HEREBY ORDAINED BY THE MAYOR AND  
COUNCIL OF THE CITY OF STONECREST, GEORGIA**, and by the authority thereof:

**Section 1:** The Code of the City of Stonecrest, Georgia is hereby amended by enacting Chapter 25 therein, to be entitled "Chapter 25. Water, Sewers and Sewage Disposal," the text of which is as set forth in Exhibit "A" that is attached hereto and made a part hereof by reference.

**Section 2.** The preamble of this Ordinance shall be considered to be and is hereby incorporated by reference as if fully set out herein.

**Section 3.** (a) It is hereby declared to be the intention of the Mayor and Council that all sections, paragraphs, sentences, clauses and phrases of this Ordinance 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

STATE OF GEORGIA  
DEKALB COUNTY  
CITY OF STONECREST

ORDINANCE NO. \_\_\_\_\_

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 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.

(c) 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 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.

**Section 4.** All ordinances and parts of ordinances in conflict herewith are hereby expressly repealed.

**Section 5.** This Ordinance shall be codified in a manner consistent with the laws of the State of Georgia and the City.

**Section 6.** The effective date of this Ordinance shall be the date of adoption unless otherwise specified herein.

[SIGNATURES CONTAINED ON THE FOLLOWING PAGE]

STATE OF GEORGIA  
DEKALB COUNTY  
CITY OF STONECREST

ORDINANCE NO. \_\_\_\_\_

**SO ORDAINED AND EFFECTIVE** this \_\_\_\_ day of \_\_\_\_\_, 2018.

\_\_\_\_\_  
Jason Lary, Sr., Mayor

Approved as to form:

\_\_\_\_\_  
Thompson Kurrie, Jr., City Attorney

Attest:

\_\_\_\_\_  
Brenda James, City Clerk

STATE OF GEORGIA  
DEKALB COUNTY  
CITY OF STONECREST ,

ORDINANCE NO. \_\_\_\_\_

**EXHIBIT A**

**Chapter 25 - WATER, SEWERS AND SEWAGE DISPOSAL**

**ARTICLE I. - IN GENERAL**

**Secs. 25-1—25-25. - Reserved.**

**ARTICLE II. - ~~COUNTY~~ WATER SYSTEM**

**DIVISION 1. - GENERALLY**

**Sec. 25-26. - 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:

*Agreement* means a contract for water service between the ~~county~~City and other public or private water systems, counties or municipalities.

*Approved* means accepted in writing for planning, installation or activation by the director.

*Appurtenance* means an item attached to or made part of a water main to divert or control flow, excluding taps and waterlines.

*As-built design* means a graphical presentation of the characteristics and scope of work performed which has been prepared by the engineer and approved by the county.

*Authorized person* means a regular and designated employee of the county or its legal agent.

*Backflow* means the flow of water or other liquids, mixtures, gases or other substances into the distributing pipes of the potable water supply from any source or sources.

*Backflow prevention device* means any effective device, method or construction approved by the county, used to prevent backflow into a potable water system. The type of device used should be based on the degree of hazard, either existing or potential.

*Back-siphonage* means a form of backflow due to a negative pressure within a potable water system.

*Back pressure* means a form of backflow due to a negative pressure within a potable water system.

*Billing period* means the time interval between issuance of statements for service.

*Commercial customer* means a person receiving service at premises where such person engages in nonmanufacturing business operations, as licensed by the county.

*Commodity charge* means a billing to a customer reflecting the volume of water delivered.

*Comprehensive plan* means the currently adopted future land use plan for the ~~county~~City or the most recent DeKalb County future land use plan if one has not been adopted by the City.

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*Construction cost* means the contractor's expense in constructing any additions or modifications to the water system.

*Contractor* means a person with whom the county or a developer contracts for execution of work.

*Cross-connection* means any actual or potential connection or structural arrangement between the public potable water system or a consumer's potable water system and any other source or system through which it is possible to introduce into any part of the potable system any used water, industrial fluid, gas or substance other than the intended potable water with which the system is supplied. Bypass arrangements, jumper connections, removable sections, swivel or changeover devices, and other temporary or permanent devices through which or because of which backflow can or may occur are considered to be cross-connections.

*Customer* means a person receiving water service from the county.

*Department* means the public works department or such other department water service provider as may hereafter be designated to enforce this article.

*Developer* means a person engaged in building residential subdivisions, commercial or industrial complexes.

*Development* means any action in preparation for construction activities which results in alteration of either land or vegetation. This definition shall not apply to individual single-family dwelling unit construction within a subdivision recorded subsequent to July 28, 1970, or to alteration, modification or additions to single-family dwelling units except for, in either case, individual single-family lots where site plans for each are required by special designation on the recorded plat or such lots are located within the intermediate regional floodplain.

*Director* means the public works director ~~of the county~~, or when a department water service provider other than the public works department is designated to enforce the provisions of this article, the director of such department water service provider.

*Dwelling* means a domicile intended for one (1) or more families.

*Dwelling unit* means that portion of a dwelling in which only one (1) family resides.

*Engineer* means a professional engineer practicing civil-sanitary engineering who is licensed by the state.

*Extension* means an addition to the water system consisting of mains six (6) inches or larger in diameter and all appurtenances required or accepted by the county water service provider.

*Fire hydrant* means a system appurtenance for connection and flow control to temporary fire lines.

*Fire line service* means an unmetered or metered permanent connection to the system restricted to fire control use.

*Guarantee deposit* means a sum of money specified by the ~~county~~ City or the water service provider deposited by a prospective customer as guarantee that bills for service will be paid.

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*Health hazard* means an actual or potential threat of contamination, or pollution of a physical or toxic nature to the public potable water system or the consumer's potable water system to such a degree of intensity that there would be a danger to health.

*Hearing* means a public meeting called at the discretion of the ~~county~~city or the water service provider with appropriate public notice to evaluate merits of a system extension or modification.

*Industrial customer* means a person engaged in manufacture or processing of goods or materials, as licensed by the ~~county~~City.

*Inspection* means an action by an authorized person who may enter a customer's premises to inspect the water system and any plumbing connected thereto for their compliance with ~~county~~the applicable ordinances.

*Inspection fee* means a charge to a customer, contractor, developer or other person for inspecting extensions or existing or new connections to the water system for their compliance with ~~county~~the applicable ordinances.

*Meter* means a manufactured unit which is part of the system, used to measure and totalize volume of water flowing from the system into a customer's piping system.

*Miscellaneous service* means any noncontinuous service for which charges are set.

*Off-site mains* means system water mains installed outside of private property or tracts planned for development.

*On-site mains* means system water mains installed in easements or dedicated rights-of-way within private property or tracts planned for development.

*Oversized mains* means water mains sized for capacity in excess of that required to meet the short-term needs that prompted extension.

*Planned extension* means an extension of the water system by the ~~county~~water service provider done as a programmed fulfillment of a step in its long-range planning process.

*Plans* means engineering drawings and specifications for extension of the system or for connections thereto, prepared by an engineer or by the ~~county~~water service provider.

*Plumber* means a person licensed to render plumbing services ~~in the county~~.

*Plumbing* means piping and associated fixtures on a premises that are connected in any way to the water system.

*Plumbing fee* means that fee paid ~~to the county~~ for the issuance of a plumbing permit.

*Potable water* means water meeting the requirements of the latest United States Public Health Service set of regulations, Drinking Water Standards, for use in control of water quality for interstate carriers.

*Premises* means building, house, store, plant or any other place where people live, work or congregate.

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*Private water system* includes the water source, delivery piping and all appurtenances, excluding building plumbing, that serve more than one (1) dwelling unit or a commercial or industrial premises as a potable water supply.

*Property owner* means a person holding legal title to a premises or an authorized representative thereof.

*Sanitary sewer* means a pipe which carries sanitary sewage and excludes groundwaters, surface waters and stormwaters.

*Service* means the acts and procedures of supplying water to system customers.

*Service charge* means billing for recurring service that is provided, whether service is used or not.

*Service cock* means the valve placed on the service connection which is used to turn on and turn off the flow of water from the water main to the premises.

*Service connection* means the procedure of making service available to a customer, which includes the service line, water meter, service cock and the tap on initial installation; subsequent service connections will normally only require a water meter.

*Service connection charge* means a charge made ~~by the county~~ for the service connection including the tap fee when performed.

*Service line* means the waterline from a tap to and including meter and service cock if they are required.

*Standard Methods* refers to Standard Methods for the Examination of Water and Wastewater, latest edition, published by APHA, AWWA, WPCF.

*Sterilize* or *sterilization* means the procedure of disinfecting water mains, service lines, plumbing and appurtenances by county-approved methods.

*Subdivision* means any tract of land, divided, planned or developed as a subdevelopment with two (2) or more residences, buildings or building sites.

*Surge* means a sudden pressure change in the water system caused by rapid valve operation.

*Tap* means the procedure and result of connecting a service line or water main to an existing or new water main.

*Tap fee* means a charge made ~~by the county~~ for making a tap on its water main.

*Unsanitary* means unclean, unhealthy or harmful to the public health.

*Valve* means a plumbing appurtenance used to control flow in a water main or service line.

*Water main or line* means a pipeline in the water system.

*Water system* or *system* means the interrelated network for purification and delivery of drinking water ~~owned by the county~~, including all water mains, service lines and appurtenances.

(Code 1976, § 6-1008)



~~Cross reference~~—Definitions and rules of construction generally, § 1-2.

**Sec. 25-27. - Cross-connection survey team.**

The cross-connection survey team shall work under the direction of the department, and shall have authority for implementation of the cross-connection requirements of the county water service provider. It shall have responsibility to see that backflow prevention devices are installed where required, tested for proper functioning upon completion of installation, and periodically tested for proper functioning after installation.

~~(Code 1976, § 6-1008)~~

**Sec. 25-28. - Feasibility of providing service.**

Water service and fire protection shall be provided in the order of application and only if determined to be feasible and consistent with sound system operation.

~~(Code 1976, § 6-1001)~~

**Sec. 25-29. - Water quality standards; inspection; record of treatment operations.**

The system shall supply potable water meeting current drinking water standards established by federal, state and local authorities. The system shall be open to inspection and tests by such authorities upon reasonable notice. The county water service provider shall maintain a record of water treatment operations available for public inspection by appointment ~~with the director~~.

~~(Code 1976, § 6-1002)~~

**Sec. 25-30. - Continuity of service, consistency of quality.**

The county water service provider shall make every reasonable effort to provide continuous service and potable water. The countycity does not warrant that system malfunctions will not result in service interruptions or pressure changes, nor does it guarantee that water quality will not vary, nor does it guarantee that it will be directly suitable for special commercial or industrial processes. The countycity assumes no liability for damages caused by varying pressure, interrupted service or water quality changes.

~~(Code 1976, § 6-1003)~~

**Sec. 25-31. - Emergency restriction of service.**

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- (a) ~~The county~~city and the water service provider reserves the right to shut off or diminish flow in system mains due to repairs, emergencies or water shortage. Notice shall be given in the event of water shortage or prolonged routine maintenance interruptions of service. Notice is not required for emergency diversions of water or emergency repairs.
- (b) During periods of dry weather, upon determination ~~by the City or contracted water service provider by the county~~ that a water shortage or potential water shortage exists to the extent that the ~~county~~ water system may not have sufficient flows for domestic service and fire protection, the ~~chief executive officer~~city council~~City Manager or designee~~ may issue such warning to the public as appropriate to effect conservation measures or the ~~chief executive~~ ~~may by order~~city council may, by resolution, adopt an Order issued by the City's water service provider, directing that unessential water usages, such as lawn watering and automobile washing, may be restricted to certain hours of the day or not permitted at all until the shortage or potential shortage no longer exists. Persons shall not violate such an order.
- (c) Any person who does anything prohibited or fails to do anything required either by this section or by ~~an order of the chief executive officer~~a resolution of the city council~~an order of a water service provider adopted by the City Council by Resolution,~~ upon citation and conviction of the violation in a court of competent jurisdiction, shall be subject to the penalties in accordance with this section and section 1-1011. Where any offense or violation continues from day to day, each day's continuance thereof shall be deemed a separate offense.
- (d) For a first violation of the provisions of this section or of ~~an order entered by the chief executive officer~~an order of a water service provider adopted by the City Council by a resolution issued by the city council pursuant to this section, the ~~director of watershed management or designee~~city or its designee shall issue a written warning of the violation and if the violation is not corrected immediately, a notice of violation shall be issued. If the first violation presents an imminent threat to public health or safety, the ~~director of watershed management or designee~~city or its designee shall issue an immediate citation in lieu of a written warning.
- (e) Upon conviction of any violation of this section or of ~~an order entered by the chief executive officer~~the order of the water service provider adopted by City Council by a resolution issued by the city council pursuant to this section, the court shall impose a fine of not less than two hundred and fifty dollars (\$250.00) in addition to any other penalty or punishment imposed by the court.
- (f) Upon a second and subsequent conviction within a twelve-month period measured from the date of the first conviction of any violation of this section or of ~~an order entered by the chief executive officer~~an order of the water service provider adopted by City Council ~~a resolution issued by the city council~~ pursuant to this section, the court shall impose a fine of not less than five hundred dollars (\$500.00) in addition to any other penalty or punishment imposed by the court.
- (g) Upon a third and subsequent conviction within a twelve-month period measured from the date of the first conviction of any violation of this section or of ~~an order entered by the chief executive officer~~an order of a water service provider adopted by City Council ~~a resolution~~

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~~issued by the city council~~ pursuant to this section, the court shall order terminateion of water service to the property where the violation occurred for a period of time to be determined in the discretion of the court, impose a fine of not less than one thousand dollars (\$1,000.00) and impose a minimum jail sentence of twenty-four (24) hours in the DeKalb County Jail.

- (h) The penalties provided in this section are not cumulative and shall not prohibit ~~DeKalb County~~the City or the contracted water service provider from pursuing any other civil or criminal remedies authorized by this code, state, or federal law.

~~(Code 1976, § 6-1004; Ord. No. 07-26, Pt. I, 11-13-07)~~

**Sec. 25-32. - Enlargement, improvement of water supply.**

The ~~county~~City may contract for additional water sources to enlarge and improve the water supply. A public evaluation study prior to contracting shall be made to determine cost effectiveness and to assess the impact of substantial improvements.

~~(Code 1976, § 6-1006)~~

**Sec. 25-33. - System financing.**

The system shall be self-sustaining from its revenues, grants and other incomes. Expansions and improvements of service shall be effected using funds in system accounts or by sale of system revenue certificates.

~~The department shall prepare annual reports of planned expansion and improvement for review by the board of commissioners.~~

~~(Code 1976, § 6-1007)~~

**Sec. 25-34. - General maintenance and protection of service policy.**

The ~~county~~City or its contracted water service provider shall take all reasonable and necessary measures to protect the water system from contamination and to assure a continuous supply of potable water. Customers and other persons shall observe all procedures promulgated by the ~~county~~City or the City's water service provider to meet the above objectives with particular reference to the maintenance and protection procedures contained in this article.

~~(Code 1976, § 6-1011)~~

**Sec. 25-35. - Protection of water sources, storage facilities.**

No person shall enter the premises of water storage facilities or reservoirs without authorization from the department. No person shall place any contaminating substances in water sources or water storage facilities.

~~(Code 1976, § 6-1012)~~

~~Sec. 25-36. -- Reserved.~~

~~Editor's note — Ord. No. 10-11, Pt. I, adopted June 22, 2010, deleted § 25-36, which pertained to connections, taps, etc., by authorized persons only and derived from Code 1976, § 6-1013.~~

**Sec. 25-37. - Proximity of waterlines to sanitary sewers.**

No sanitary sewer shall be placed within ten (10) feet horizontally of a waterline nor less than three (3) feet above or below a waterline without special protection approved by the department.

~~(Code 1976, § 6-1014)~~

~~Sec. 25-38. -- Reserved.~~

~~Editor's note — Ord. No. 10-11, Pt. I, adopted June 22, 2010, deleted § 25-38, which pertained to fire hydrant use and derived from Code 1976, § 6-1015.~~

**Sec. 25-39. - Surge protection.**

Customers shall not employ fast-acting valves on any line or connection thereto without surge protection approved by the city or the water service provider county.

~~(Code 1976, § 6-1016)~~

**Sec. 25-40. - Electrical grounding.**

No new or revamped wiring systems or electrical appliances that may induce shock shall be grounded to the water system or connected thereto. Grounding rods or other devices will be employed.

~~(Code 1976, § 6-1017)~~

**Sec. 25-41. - Covering of appurtenances.**

Pavement or earthwork shall not be placed over any valve or box cover nor shall such appurtenances to the system be rendered inaccessible to the county.

~~(Code 1976, § 6-1018)~~

~~Sec. 25-42. - Reserved.~~

~~Editor's note—The provisions of former § 25-42, taps on waterlines, derived from Code 1976, § 6-1019, were repealed by § 1 of Ord. No. 89-06, adopted Feb. 28, 1989.~~

Sec. 25-4340. - Location, ownership of facilities.

The entire water system up to and including meters is the property of the countywater service provider, except for other water systems connected by agreement. In no case shall mains or appurtenances be placed outside of public rights-of-way or appropriate easements. Title shall not be conveyed to ~~the county~~ for mains or appurtenances without simultaneous conveyance of necessary easements or rights-of-way. Title to any water system property or components shall not be conveyed to any person unless the ~~director and the board of commissioners~~water service provider approves such to be obsolete, surplus, and not needed in long-range system plans and further provided that the countywater service provider receives compensation or credit in amount of fair market value.

~~(Code 1976, § 6-1040)~~

Sec. 25-4441. - Inspection of premises; right of entry.

- (a) Application for water service shall constitute an agreement that a customer shall allow the City or its water service provider~~county~~ inspection of the premises for violation of this article, maintenance of the system, meter reading, testing, surveys, and inspection of waterline construction. Entry to premises for any purpose other than routine and agreed-upon operations shall be preceded by due notice served as provided in this section.
- (b) Due notice shall consist of a certified letter, return receipt requested, being mailed to the person refusing to allow entry. This notice shall require acknowledgement and agreement of that person to allow entry, giving ten (10) days' time after receipt of due notice for this to be made. When due notice is given for purpose of access for surveys or inspection, acknowledgement and agreement to allow entry shall be made within the same ten (10) days and no offense is presumed. Thereafter the ~~county~~city, or the city's water service provider, may issue citations by certified letter for each day of violation now presumed only after issuing a second due notice for violation as outlined above.
- (c) The ~~county~~City and its authorized agents and employees may enter upon any lands in the ~~county~~city for the purpose of making such surveys, soundings, drillings, and examinations as ~~the county may be deemed~~ necessary or desirable to accomplish the purposes of planning and engineering water system improvements; and such entry shall not be deemed a trespass nor shall it be deemed an entry which would constitute a taking in a condemnation proceeding, providing that reasonable notice of such entry shall be done in a reasonable manner with as little inconvenience as possible to the owner or occupant of the property, and the ~~county~~City shall make reimbursement for any actual damages resulting from such entry.

STATE OF GEORGIA  
DEKALB COUNTY  
CITY OF STONECREST

ORDINANCE NO. \_\_\_\_\_

~~(Code 1976, § 6-1042; Ord. No. 91-24, 10-8-91)~~ **Sec. 25-4542. - Inefficient plumbing fixtures replacement plan.**

Sections 25-452 through 25-46 shall be known as the "~~DeKalb County~~Stonecrest Inefficient Plumbing Fixtures Replacement Plan."

~~(Ord. No. 08-04, Pt. I, 2-26-08)~~

**Sec. 25-463. - Definitions.**

For the purposes of sections 25-452 through 25-46, certain terms and words are hereby defined. Where words are not herein defined, but are defined in section 1-2 of the Code, those words shall have the meaning as defined therein. Unless otherwise defined herein, words related to construction shall be as defined in this code and in the latest adopted applicable editions of the Georgia codes applicable to building construction adopted pursuant to state law. The following words, terms and phrases, when used in sections 25-425 through 25-46, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

- (1) *Apartment* means one (1) or more rooms intended for occupancy as a separate living quarters with cooking, sleeping and bathroom facilities provided within the dwelling where the occupants have no ownership interest in the dwelling but rather occupy the dwelling as tenants paying rental payments to a landlord.
- (2) *Architectural or historic restrictions* means a building or structure that has been identified by this Code or a state or federal government entity as a historic site or is one hundred (100) years or older and has special historic or esthetic interest or value.
- (3) *Certificate of compliance* means a written form in which a home inspector, department of watershed management inspector, or a licensed plumber pursuant to the laws of the state asserts, under penalty of perjury, that all structures on the property only contain water-conserving plumbing fixtures and that all other kinds of plumbing fixtures have been removed from all structures on the property.
- (4) *Commercial qualifying property* means all land except residential qualifying property in ~~unincorporated DeKalb County~~within the municipal limits of the City containing a structure(s) constructed prior to 1993, including apartments.
- (5) *Extreme economic hardship* means a cost to comply with the requirements of these sections that exceeds one thousand dollars (\$1,000.00) per toilet in a single-family residential building or two thousand dollars (\$2,000.00) per toilet for a commercial building.
- (6) *Residential qualifying property* means any land in ~~unincorporated DeKalb County~~within the municipal limits of the City containing a structure(s) constructed prior to 1993 that is an attached or detached single-family dwelling or dwelling unit as those terms are defined by

~~section 27-34~~ in the City's zoning ordinance. Residential qualifying property does not include apartments as that term is defined in this section.

- (7) *Qualifying property* means any land ~~in unincorporated DeKalb County~~ within the municipal limits of the City containing a structure(s) constructed prior to 1993 and includes commercial and residential qualifying property.
- (8) *Water conserving plumbing fixtures* means ultra-low-flow toilets (ULFTs) that use a maximum of 1.6 gallons per flush; urinals that use a maximum of 1.0 gallon per flush; showerheads that emit a maximum of 2.5 gallons per minute; lavatory faucets that emit a maximum of 2.0 gallons per minute; kitchen faucets that emit a maximum of 2.2 gallons per minute.

**(Ord. No. 08-04, Pt. I, 2-26-08)**

**Sec. 25-4744. - Purpose, scope, and policy.**

- (a) The ~~county~~ City is authorized to adopt ordinances for the purpose of protecting and preserving the health, safety, and welfare of ~~the~~ its citizens ~~of the county~~.
- (b) Georgia Constitution article 9, § 2, ¶ 3(a)(7) gives the ~~county~~ City the authority to provide for distribution of water to its citizens and the governing authority believes that enactment of ~~this~~ Stonecrest Inefficient Plumbing Fixtures Replacement Plan will help to ensure that its citizens are provided with a continuous supply of potable water for domestic service and fire protection.
- (c) The continuing drought conditions in the ~~s~~ State of Georgia and in ~~DeKalb County~~ the City has reached epic proportions and ~~this~~ Stonecrest Inefficient Plumbing Fixtures Replacement Plan is designed to ensure that the ~~county~~ City takes reasonable and effective measures to protect ~~the~~ DeKalb County's water supply available to serve the needs of businesses and residences located within its municipal limits. ~~to its residents.~~
- (d) The availability of sufficient water is a fundamental necessity and a serious public health issue and ~~this~~ Stonecrest Inefficient Plumbing Fixtures Replacement Plan is designed to provide beneficial public regulations to ensure that potable water remains available to the citizens of ~~DeKalb County~~ the City now and in future years.
- (e) Buildings and homes constructed in DeKalb County after January 1, 1993, are required to be built with water-conserving plumbing fixtures like ultra-low-flow toilets that use a maximum of 1.6 gallons per flush and showerheads that emit a maximum of 2.0 gallons per minute. Buildings and homes constructed prior to 1993 do not necessarily contain these water-conserving plumbing fixtures and therefore the continued use of these outdated plumbing fixtures contravenes the governing authority of DeKalb County's obligation to protect DeKalb County's water supply to its residents; and
- (f) Droughts may very well continue to occur and the availability of an adequate supply of water for domestic service and fire protection will be a serious issue in the coming years.

- (g) The requirements set forth in this ~~Stonecrest Inefficient Plumbing Fixtures Replacement Plan~~ will conserve desperately needed water resources so that the citizens of ~~DeKalb County~~ the City continue to have adequate water for their use.

~~(Ord. No. 08-04, Pt. I, 2-26-08)~~

**Sec. 25-485. - Inefficient plumbing fixtures replacement plan requirements.**

- (a) *Disclosure requirements.* Any person selling qualifying property after the applicable effective date of these ~~sections~~ Stonecrest Inefficient Plumbing Fixtures Replacement Plan shall disclose the requirements of these ~~sections~~ Plan to potential purchasers prior to the execution of any contract to purchase and sell such property.
- (b) *Forms.* The ~~chief executive officer~~ city manager or his/her designee shall promulgate all forms and administrative processes required by the enactment of the ~~DeKalb County~~ Stonecrest Inefficient Plumbing Fixtures Replacement Plan.
- (c) *Purchaser's responsibility.* No person who purchases qualifying property after the applicable effective date of the ~~sections~~ Stonecrest Inefficient Plumbing Fixtures Replacement Plan shall be allowed to obtain water service from ~~DeKalb County~~ the City or the water service provider until such time as that person has attached a certificate of compliance to the application for water service.
- (d) *Effective date.* These sections shall become effective for sales of residential qualifying property on, and after, June 1, 2008 December 1, 2018, and shall become effective for sales of commercial qualifying property ~~on~~ on, and after, January 1, 2009 December 1, 2018.
- (e) *Exemptions.* The following transactions or types of real property are exempt from compliance with the requirements set forth in sections 25-452 through 25-496:
- (1) Any real property ~~in unincorporated DeKalb County~~ within the municipal limits of the City containing a structure that was constructed after January 1, 1993;
  - (2) Any real property that is being advertised for foreclosure; or
  - (3) Any qualifying property that will not be inhabited but instead will be demolished after sale provided that prior to demolition the purchaser shall not be allowed to obtain water service for the qualifying property unless such water service is solely for demolition or construction-related purposes;
  - (4) Any qualifying property that is sold or conveyed between spouses, or between parents and their children, including conveyances during the administration of the estate of such spouse, parent or child; or
  - (5) Any qualifying property that, because of its architectural or historic restrictions, plumbing configurations, and/or drainage system configurations, would cause the owner to suffer extreme economic hardship.



- (f) *Duty.* Nothing in these sections is intended to or shall be construed to create any duty upon the agent of any transferee of any qualifying property; unless otherwise mutually agreed to in writing.

~~(Ord. No. 08-04, Pt. I, 2-26-08)~~

**Sec. 25-496. - Criminal penalties.**

- (a) Any person who does anything prohibited or fails to do anything required by the ~~DeKalbStonecrest~~ County Inefficient Plumbing Fixtures Replacement Plan set forth in sections 25-452 through 25-496, upon citation and conviction of the violation in a court of competent jurisdiction, shall be subject to the penalties in accordance with section 1-101 of this Code.
- (b) Upon a second and subsequent conviction within a twelve-month period measured from the date of the first conviction of any violation of the ~~DeKalb County~~ Stonecrest Inefficient Plumbing Fixtures Replacement Plan set forth in sections 25-452 through 25-496, the court shall impose a fine of not less than two hundred fifty dollars (\$250.00) in addition to any other penalty or punishment imposed by the court.
- (c) Upon a third and subsequent conviction within a twelve-month period measured from the date of the first conviction of any violation of the ~~DeKalb County~~ Stonecrest Inefficient Plumbing Fixtures Replacement Plan set forth in sections 25-452 through 25-496, the court shall impose a fine of not less than five hundred dollars (\$500.00) in addition to any other penalty or punishment imposed by the court.
- (d) The penalties provided in this section are not cumulative and shall not prohibit ~~DeKalb County~~ the City from pursuing any other civil or criminal remedies authorized by this code, state, or federal law.

**Sec. 25-47 – 25-49. – Reserved.**

~~(Ord. No. 08-04, Pt. I, 2-26-08)~~

**DIVISION 1.52. - ILLEGAL USE OF WATER REGULATIONS**

**Sec. 25-50. – Title.**

~~Sections 25-50 through 25-50.14 shall be known as the illegal use of water regulations of DeKalb County, Georgia.~~

~~(Ord. No. 10-11, Pt. I, 6-22-10)~~

**Sec. 25-50.1. - Definitions.**

For the purposes of this division, certain terms and words are hereby defined. The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them

in this section, except when the context clearly indicates a different meaning. Where words are not herein defined, but are defined in section 1-2 of the Code or elsewhere in this chapter-25 of this Code, those words shall have the meaning as defined therein.

*Commercial establishment* means any hotel, motel, apartment, multifamily dwelling, rooming house, restaurant, business, industrial, public or semipublic establishment of any nature or kind whatsoever but does not include a single-family dwelling or a condominium.

~~(Ord. No. 10-11, Pt. I, 6-22-10)~~

**Sec. 25-50.21. - Illegal use of water.**

It shall be unlawful for any person to obtain water from the county's water system with the intent to avoid payment for said water.

~~(Ord. No. 10-11, Pt. I, 6-22-10)~~

**Sec. 25-50.32. - Fraudulent representation for use of water.**

It shall be unlawful to make a false representation on the county application for water service to any premises, or to use water in or upon any premises for purposes not set forth in the application.

~~(Ord. No. 10-11, Pt. I, 6-22-10)~~

**Sec. 25-50.43. - Unauthorized connections prohibited.**

No person shall connect to, tap on, or discharge water from any water line or water main belonging to the county water service provider without first obtaining the written permission of ~~the chief executive officer or his/her designee~~ to do so and without first paying the required deposit, tap fee, and/or connection charge.

~~(Ord. No. 10-11, Pt. I, 6-22-10)~~ **Sec. 25-50.54. - Unauthorized reconnection prohibited.**

No person shall reconnect or turn on any water connection where the water connection has been disconnected by the county for nonpayment of water bills, or for other purposes.

~~(Ord. No. 10-11, Pt. I, 6-22-10)~~

**Sec. 25-50.65. - Damage of any appurtenances to water supply system prohibited.**

No person shall damage, destroy, deface, impair the function of, or otherwise vandalize any portion of the county water supply system.

~~(Ord. No. 10-11, Pt. I, 6-22-10)~~

**Sec. 25-50.76. - Meter tampering prohibited.**

No person shall break, alter, change the reading of, or tamper with the mechanism of any water meter of the county.

**(Ord. No. 10-11, Pt. I, 6-22-10) Sec. 25-50.87. - Bypassing meter prohibited.**

No person shall attach any pipe, device or mechanism of any kind or type to any county water line, pipe, meter, or main in such a manner as to cause any water to flow through, by or around any county water meter without the meter properly measuring and recording the quantity thereof.

**(Ord. No. 10-11, Pt. I, 6-22-10) Sec. 25-50.98. - Permission required to use unmetered water.**

No person shall attach any pipe, device or other mechanism of any kind or type to any county water line, pipe or main where a water meter has not been installed and the water taken does not flow through a water meter without first obtaining written permission from the chief executive officer or his/her designee water service provider.

**(Ord. No. 10-11, Pt. I, 6-22-10) Sec. 25-50.109. - Fire hydrants.**

- (a) No person shall attach a hose, pipe or other mechanism to a county fire hydrant or open a fire hydrant without first obtaining written permission from the director of the department of watershed management or the county fire chief, except in case of a fire.
- (b) No person shall be allowed to use water from any fire hydrant connected to the county water system, except by special permit from the director of the department of watershed management water service provider or the county fire chief, except in case of fire.
  - (1) *Schedule of charges.* In cases where a special permit is issued, the department of watershed management water service provider shall install a hydrant meter with a backflow preventer. The quantity of water used shall be charged to the customer at the prevailing rates in effect at the time of usage of water.
  - (2) *Deposits required.* A deposit, as established from time to time by the board of commissioners water service provider, shall be required with each application for installation of a hydrant meter. Part of the deposit may be credited against the water charge for the hydrant usage when the meter is removed. If the meter is damaged prior to removal by the county water service provider, the deposit shall be forfeited and retained by the county water service provider.
  - (3) *Backflow prevention.* Proper backflow prevention measures shall be used in the manner required by the county cross connection control survey team.

**(Ord. No. 10-11, Pt. I, 6-22-10)**

**Sec. 25-50.1610. - Unauthorized possession of a fire hydrant meter.**

It shall be unlawful for any person to have in his/her possession any unauthorized fire hydrant meter. Fire hydrant meters shall be installed by the ~~department of watershed management~~ water service provider after the requesting party completes an application and pays applicable fees. The hydrant meter shall be installed as close as possible to the requested location.

(Ord. \_\_\_\_\_ No. \_\_\_\_\_ 10-11, \_\_\_\_\_ Pt. \_\_\_\_\_ I, \_\_\_\_\_ 6-22-10)

**Sec. 25-50.1261. - Unauthorized operation of valves or other water system control or regulating devices.**

No person shall operate or change the adjustment of any water system valve, pressure regulating device, or other water system control device without first obtaining written approval from the director of the ~~department of watershed management~~ water service provider or his/her designee.

(Ord. No. 10-11, Pt. I, 6-22-10) **Sec. 25-50.1362. - Water to be cut off in case of violation.**

If any person, either as owner or tenant, shall violate or permit other persons to violate any provision of this division, the supply of water to the premises shall be shut off and service discontinued forthwith. The water shall not again be turned on until such unauthorized use of water is stopped and there shall have been paid to the county such charges as the finance director or his/her designee may determine to be due for water used in violation of this division and for the expense of discontinuing and restoring water service.

(Ord. No. 10-11, Pt. I, 6-22-10) **Sec. 25-50.1463. - Criminal penalties.**

- (a) Any person who does anything prohibited or fails to do anything required by these illegal use of water regulations, upon citation and conviction of the violation in a court of competent jurisdiction, shall be subject to the penalties in accordance with section 1-1011. Where any offense or violation continues from day to day, each day's continuance thereof shall be deemed a separate offense.
- (b) Upon a second and subsequent conviction within a twelve-month period measured from the date of the first conviction of any violation of these regulations, the court shall impose a fine of not less than five hundred dollars (\$500.00) in addition to any other penalty or punishment imposed by the court.
- (c) Upon a third and subsequent conviction within a twelve-month period measured from the date of the first conviction of any violation of these regulations, the court shall impose a fine of not less than one thousand [dollars] (\$1,000.00) and impose a minimum jail sentence of twenty-four (24) hours in the DeKalb County Jail.

- (d) The penalties provided in this section are not cumulative and shall not prohibit ~~DeKalb County~~ the City from pursuing any other civil or criminal remedies authorized by this Code, ~~county, state, or federal law.~~ city from prosecuting the crime of theft of services to the fullest extent allowed by ~~Georgiastate~~ state law.

~~(Ord. No. 10-11, Pt. I, 6-22-10)~~

~~Secs. 25-5164—25-5474.~~ - Reserved.

~~DIVISION 1-753.~~ - WATER WASTE

~~Sec. 25-5575.~~ - Definitions.

~~For the purposes of section 25-55 through 25-57, certain terms and words are hereby defined. The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except when the context clearly indicates a different meaning. Where words are not herein defined, but are defined in section 1-2, those words shall have the meaning as defined therein. Unless otherwise defined herein, words related to construction shall be as defined in this Code and in the latest adopted applicable editions of the Georgia codes applicable to building construction adopted pursuant to state law. The following words, terms and phrases, when used in sections 25-55 through 25-57, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:~~

~~*Economic hardship* means a cost to comply with the requirements of section 25-5676 that exceeds one thousand dollars (\$1,000.00).~~

~~(Ord. No. 11-20, Pt. I, 11-8-11)~~

~~Sec. 25-576.~~ - Waste of water.

It shall be unlawful for any person to allow water to be wasted by leaks, breaks, or malfunctions in any water pipe or fixture on premises owned or occupied by that person. If a person does not repair or report a leak, a break or a malfunction for any period of time beyond which the leak, break, or malfunction reasonably should have been corrected, ~~the county~~ water services may be terminated ~~water service~~ to the premises. A period of two (2) business days after the person discovers such leak, break, or malfunction, or within two (2) business days of receiving a notice from the county of such condition, whichever comes first, shall be presumed to be a reasonable time within which the person shall correct such a condition. Notice from the county shall be hand delivered or posted in a conspicuous place on the premises. If the leak, break, or malfunction poses a public health, public safety, or environmental threat to the citizens of the ~~county~~ city, ~~the county~~ water services may be terminated ~~water service~~ immediately with no notice to the occupant of the premises. Water service to the premises shall not be restored until the leak, break, or malfunction is repaired, and all outstanding water bills, including the administrative fee(s) for termination and restoration of water service, have been paid to the

~~county. Within thirty (30) calendar days after the effective date of this section, the chief executive officer or designee shall promulgate a written policy for crediting accounts for water leaks occurring before the leaks are discovered by the property owner or before the property owner receives written notification from the county. If, at any time, the chief executive officer or designee revises the written policy, the policy shall be presented to the board of commissioners for review and concurrence. The water service provider shall promulgate a written policy for crediting accounts for water leaks occurring before the leaks are discovered by the property owner or before the property owner receives written notification.~~

~~(Ord. No. 11-20, Pt. I, 11-8-11)~~

**Sec. 25-577. - Economic hardships.**

~~Any person who can provide proof of economic hardship to the director of the department of watershed management (hereinafter referred to as "director") may petition the director~~water service provider, within two (2) business days after the person discovers such leak, break, or malfunction, or within two (2) business days of receiving a notice from the county of such condition, for additional time to repair a leak, a break, or a malfunction. Should ~~the director grant the petition be granted~~, the petitioner will receive no more than an additional fifteen (15) business days to correct the condition and, during this period, water service to the premises shall not be terminated. The petitioner shall be responsible for all costs and associated fees of water usage and wastage following the initial two (2) business-day period after discovery or notification until the leak, break, or malfunction is corrected.

~~(Ord. No. 11-20, Pt. I, 11-8-11)~~

~~Secs. 25-578—25-680. - Reserved.~~

**DIVISION 24. - EXTENSIONS OF SERVICE**

**Sec. 25-681. - Planned extensions to developed areas.**

~~The county~~water service provider may, as part of its continuing service to residents, extend water service without petition to developed areas presently obtaining service from other sources. In such cases, a property owner must tie onto the ~~county~~water service provider's system if service is available within three hundred (300) feet of the premises' property line after due notice from the ~~county~~water service provider.

~~(Code 1976, § 6-1032)~~

**Sec. 25-682. - Planned extensions to developing areas.**

~~The county~~water service provider may, as part of its continuing service to residents, extend water service to areas planned for development or in the course of development provided that

cost benefits analysis shows projected revenues or cost participation to be sufficient to warrant extension.

(Code 1976, § 6-1033)

**Sec. 25-683. - Incorporation of private systems.**

Existing water systems in apartment and condominium developments, office complexes and similar developments including subdivision water mains may be incorporated into the county water system on approval by the county. System water mains and appurtenances must meet county standards for materials and design. Remedial work costs to meet standards shall be borne by developers, owners or customers using or administering the system prior to conveyance.

(Code 1976, § 6-1034)

**Sec. 25-684. - Requests for installation of water mains on existing county roads.**

- (a) A request for the installation of a water main by county residents who live on existing county roads not serviced by the water system shall be presented to the ~~board of commissioners through the department~~ water service provider on petition forms provided by the ~~department~~ water service provider. The petitioner shall agree to pay the service connection charge for each residence prior to installation of the new main for use when the main is complete. This purchase will not be required if the petitioner has previously purchased a meter for the address in the petition.
- (b) A maximum of one hundred (100) linear feet of water main will be installed by the county water service provider for each petitioner without charge. If additional footage is required to serve all petitioners, the petitioners shall reimburse the county water service provider for any excess footage at the per-linear-foot charge of an eight-inch line based upon the actual estimated cost of construction. This sum shall be on a pro rata basis or in a specified amount for each petitioner listed on the petition with the total of the amounts specified equaling the total reimbursable cost. Pro rata costs shall be equally divided based on the total number of petitioners rather than on the length required to cover the frontage of each petitioner.
- (c) Prior to submission of the petition, the petitioner shall be provided with cost data by the county water service provider for the total length of water main installation required. The petition shall be presented to the county water service provider at which time a preliminary design will be prepared for the water main as submitted. If a water main larger than eight (8) inches is required to conform with plans for future water service, cost data shall be prepared for both the eight-inch and larger mains and the county water service provider shall bear the difference in cost at that time.

- (d) ~~The department shall, before placing the petition on the agenda,~~ Before the final approval of the petition, the water service provider shall coordinate with the county board of health to ascertain whether any health hazards exist in the petition area that may be alleviated or corrected by the installation of the requested water main.
- (e) This information shall be presented for consideration by the board ~~of commissioners~~ authorizing authority together with the petition and estimate of cost for review and decision.
- (f) ~~The board of commissioners may waive the provisions of this section~~ may be waived by the authorizing authority at its discretion, particularly in those instances where the board of health has determined that a health hazard exists as a consequence of the use of private water supply systems.

(Code \_\_\_\_\_ 1976, \_\_\_\_\_ § \_\_\_\_\_ 6-1035)

**Sec. 25-685. - Developer requests for extension or replacement of water mains on existing ~~county~~ city roads.**

~~{~~ Developer requests for the extension or replacement of water mains on existing ~~county~~ city roads shall be processed as follows: ~~}~~

- (1) In the event the ~~county~~ water service provider's plans for future water service call for a main to be installed larger than the size of the main required to supply the development, then the ~~county~~ water service provider may pay the difference in cost of the materials to install the size main required by the ~~county~~ water service provider. The comparison of material costs will be based upon the ~~county~~ water service provider's material cost for the larger pipe. Payment by the ~~county~~ water service provider will be made upon completion and satisfactory inspection of the work ~~by the county~~ and upon receipt of a maintenance bond equal to ten (10) percent of the cost of the construction of the water to ten (10) percent of the cost of the construction of the water facility. The developer may provide a letter of escrow or letter of credit acceptable to the county in lieu of the maintenance bond required in this section. An eight-inch main will be considered as the minimum size main required to supply a development of any size.
- (2) Water main design shall be accomplished by ~~county~~ water service provider's water system engineers unless otherwise authorized by the ~~county~~ water service provider.
- (3) When the developer completes his work in accordance with ~~county~~ the water service provider's specifications and the work has been duly inspected by the ~~water and sewer division of public works~~ appropriate department of the water service provider, the developer shall provide "as-built" drawings in accordance with section 25-66(2) ~~86~~ and any required easements for the water main installation ~~to the county~~.
- (4) After the work has been completed and inspected to the satisfaction of the ~~county~~ water service provider, the developer shall provide a maintenance bond equal to ten (10) percent of the costs of the construction of such facilities. The developer may provide a



letter of escrow or letter of credit acceptable to the county water service provider in lieu of the maintenance bond required in this section.

- (5) The developer shall be required to maintain the water lines for a period of twelve (12) months. During this developer maintenance period, the county water service provider shall make inspections and instruct the developer by letter as to what corrections must be made, if any.
- (6) At the end of the twelve-month developer maintenance period, the county water service provider shall make a final inspection and notify the developer and the bonding company, if any, of any corrections to be made. If the work is acceptable at this time, the maintenance bond, letter of escrow or letter of credit shall be released.
- (7) If required corrections are not made within thirty (30) days of notice, the county water service provider shall have the authority to make these corrections at the expense of the bonding company. In cases where funds are being held under letter of credit or letter of escrow, the cost of making these corrections shall be drawn by the county from these funds, and the developer charged with any costs above the amount of such funds.
- (8) The county water service provider shall have full authority to inspect, test and sterilize all water mains installed under this section.
- (9) No use shall be made of such systems nor shall the county water service provider accept such systems until the developer has complied with all the requirements of this section and until satisfactory sterilization and tests have been completed ~~by the county by the~~ water service provider or designee.

~~(Code 1976, § 6-10-36; Ord. No. 89-06, § 2, 2-28-89; Ord. No. 89-16, § 1, 4-11-89; Ord. No. 92-25, 7-28-92)~~

~~Cross reference - Sterilization of water mains, § 14-330.~~

**Sec. 25-686. - Installation of water mains in residential subdivisions.**

Water mains installed in residential subdivisions shall be installed subject to the following conditions:

- (1) Water mains shall be designed by the county water service provider.
- (2) Installation shall be accomplished by a qualified contractor and shall be in accordance with latest county specifications of the water service provider. Upon completion of the water line construction, an engineer, registered in the State of Georgia must provide a statement that the system, as installed, is in accordance with the approved plans and specifications.
- (3) The county water service provider shall have full authority to inspect, test and require sterilization of all water mains. No use shall be made of such systems until satisfactory sterilization and test have been completed.

- (4) If it is necessary to route the proposed water main through private property of the developer for circulation or supply purposes, the developer will provide the countywater service provider with the required easements. Requests for water mains should be submitted to the appropriate department of the public works departmentwater service providert after the development plat has been approved by the planningsuch department. A sepia drawing of the proposed development and a properly executed request form should be submitted in order that a layout and estimate of the cost may be prepared by the countywater service provider. All known requirements for water to satisfy the underwriters, as well as the needs of the prospective occupants, should be stated to assist in the preparation of the layout and estimate.

~~(Code 1976, § 6-1037; Ord. No. 89-06, § 3, 2-28-89; Ord. No. 92-21, 7-28-92)~~

**Sec. 25-687. - Installation of water mains in dedicated streets of residential, commercial, industrial developments.**

- (a) Installation of water mains in dedicated streets of residential, commercial and industrial developments shall be installed under the following conditions:
- (1) Water mains to serve the development shall be designed by the countywater service provider.
  - (2) Installation shall be accomplished by a qualified contractor approved by the countywater service provider and shall be in accordance with latest county specifications of the water service provider.
  - (3) The countywater service provider shall have full authority to inspect, test and require sterilization of all water mains. No use shall be made of such systems until satisfactory sterilization and tests have been completed.
- (b) Installation of water mains in commercial/industrial developments in other than dedicated streets shall be in accordance with the policy concerning shopping centers and other similar developments.
- (c) Requests for water mains should be submitted to the departmentwater service provider after the development plat has been approved by the water service provider's planning department. A sepia drawing of the proposed development and properly executed request form should be submitted in order that a layout and estimate of the cost may be prepared by the countywater service provider. All known requirements for water to satisfy the underwriters, as well as the needs of the prospective occupants, should be stated to assist in the preparation of the layout and estimate.

~~(Code 1976, § 6-1038; Ord. No. 89-06, § 4, 2-28-89; Ord. No. 92-22, 7-28-92)~~

**Sec. 25-688. - Installation of water mains in shopping centers, certain apartment and condominium developments, developments not dedicating streets to countythe city.**

- (a) Shopping centers, apartment and condominium developments of R-A5 or greater density, and similar developments which do not dedicate streets to the ~~county~~City shall be served by a master meter. In cases where fire protection is required to be installed, an eight-inch or larger fire line main may be served through an eight-inch or larger master meter and potable water service taken from the fire line main within the development. As an alternate to this, an unmetered fire line may be installed with a separate master-metered potable water service line. Exception to the requirement for the master meter may be made when, in the opinion of the ~~county~~water service provider, conditions are such that the installation of individual meters within the development would prove more feasible than serving the development by a master meter.
- (b) Installation of an eight-inch or larger water main within developments shall be subject to the following conditions:
- (1) Design of all lines six (6) inches and larger shall be approved by the ~~county~~water service provider, and all materials used in construction of the water main shall be in accordance with ~~county~~the specifications of the water service provider.
  - (2) All water main materials and labor shall be paid for by the developer, and installation shall be in accordance with ~~the~~county specifications of the water service provider and by a qualified contractor.
  - (3) The ~~county~~water service provider shall have the full authority to inspect, test and require sterilization of all water mains. No use shall be made of such water mains until satisfactory sterilization and tests have been completed.

(Code 1976; Ord. No. 6-1039; Ord. No. 89-06, § 5, 2-28-89)

Sec. 25-689. - Purchase of materials for water system construction on private property.

- (a) A water system constructed on private property will not be accepted for maintenance by the ~~county~~water service provider unless all water line and appurtenant materials required for the installation is inspected by the ~~county~~water service provider prior to construction and are found to meet the material specifications of the water service provider~~published by the water and sewer division of public works.~~
- (b) All water system construction on private property must be inspected by the ~~county~~water service provider during construction before maintenance acceptance will be considered.
- (c) Any planned water system construction considered as private by the owner during the permitting and development review stage of plans review by the ~~water service provider~~county will remain private unless subparagraphs (a) and (b) are complied with.

(Ord. No. 91-26, 11-12-91; Ord. No. 92-23, 7-28-92)

Secs. 25-790—25-80100. - Reserved.

**DIVISION 35. - INITIATION, CONNECTION AND TERMINATION OF SERVICE**

**Sec. 25-81101. - Application for service for all classifications.**

Persons desiring water service shall file application with the departmentwater service provider and sign a standard contract form prior to receiving service. Application shall be made in person by customer or agent. A prospective customer will be assigned to the proper user classification. Separate application is required for each classification of service desired. A completed application in the form prescribed by the countywater service provider shall be received at least ten (10) days prior to service connection availability. The use of water service binds a person as if such person had signed a contract.

~~(Code 1976, § 6-1051)~~

**Sec. 25-82102. - Application for miscellaneous services.**

Written application for miscellaneous services shall be made to the departmentwater service provider, which shall prescribe uniform procedures and guidelines for initiation of such services. Miscellaneous services shall be scheduled in the order of approved application except in cases of emergency or requirement for financial participation by the countywater service provider requiring approval of the board of commissionersapplicable governing authority.

~~(Code 1976, § 6-1052)~~

**Sec. 25-83103. - New service connections.**

Where a service line does not exist to premises, the countywater service provider shall tap the water main and install a service line, including meter, meter box and service cock. Service connection shall be made only by an authorized person. No contractor, plumber or other person shall tap any water main without written permission from the countywater service provider. The customer at this point shall connect the plumbing to the water system. Only one (1) service line shall be provided per application. Service cocks shall be operated only by an authorized contractor or plumber making repairs on plumbing or waterlines, or by an authorized person.

~~(Code 1976, § 6-1053)~~

**Sec. 25-84104. - Existing connections.**

Where a service line exists, the countywater service provider shall determine whether this service line is to be used or requires replacement. Where service line replacement is required, the application shall be charged as though it were a new service connection. Service connection shall be made as provided for a new service connection.

~~(Code 1976, § 6-1054)~~

**Sec. 25-85105. - Metering.**

- (a) *Definitions.* For the purposes of this article, certain terms and words are defined. Where words have not been defined, but are defined in section 1-2, those words shall have the meaning as defined therein. The following words, terms, and phrases, when used in this section shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

*Apartment* means one (1) or more rooms with a private bath and kitchen facilities comprising an independent self-contained residential unit in a building(s).

*Condominium* for the purposes of this section is defined in the same manner as it is defined in ~~section 27-31~~ the City's zoning ordinance.

*Master meter* means a utility-owned meter that measures and totalizes the volume of water flowing from the water distribution system into a multifamily dwelling unit as that term is defined in ~~section 27-31, building piping system~~ the City's zoning ordinance.

*Newly constructed apartment* means any structure for which a building permit for construction of an apartment is issued after June 1, 2008.

*Newly constructed single-family dwelling or condominium* means any structure for which a building permit for construction of a single-family dwelling or condominium is issued after June 1, 2008.

*Separate water meter* means a utility-owned meter that measures and totalizes the volume of water flowing from the water distribution system into a single family dwelling or condominium's piping system.

*Single-family dwelling* for the purposes of this section is defined in the same manner as it is defined in ~~section 27-31~~ the City's zoning ordinance but also includes dwelling units on an individual lot attached to another dwelling unit by a common party wall, commonly referred to as a town house or town home.

*Sub-unit water meter* means water meters owned and managed by the property owner with a utility-owned master meter that bills for water service based on volume of use. Sub-unit water meters shall allow for the water use in each apartment to be tracked separately.

- (b) *Meters.* All users except those classified as fire line users shall be metered. All meters shall be sized on the basis of expected volume of water usage. All meters, except sub meters, are part of the service line provided by the ~~county~~ water service provider and are the property of the ~~county~~ water service provider.
- (c) *Sub-unit water meters for newly constructed apartments.* No water shall be furnished to any newly constructed apartment except through sub-unit water meters so that the water use in each apartment can be accurately tracked. Sub-unit water meters allow tenants to know how much water they use and may encourage wiser use of water. Water service however, shall be billed by the county on a master meter basis and the property owner and/or landlord is responsible for paying the county for all charges contained in such bills. The enactment of

this section in no way prevents property owners and/or landlords from using sub-unit water meters to bill each tenant for actual water usage which will encourage wiser use of water by tenants in apartments.

- (d) *Separate water meters for single family dwellings and condominiums.* No water shall be furnished to any newly constructed single-family dwelling or condominium except through separate water meters. Water service shall be billed by the county to the property owner based on individual unit water meters and each property owner is responsible for paying the county water service provider for all charges contained in such bills.

~~(Code 1976, § 6-1055; Ord. No. 08-05, Pt. I, 3-25-08)~~

**Sec. 25-8106. - Inspection of service connections.**

All plumbing or yard piping connections to a service line shall be subject to inspection by an authorized person prior to service connection. Refusal to allow inspection shall result in refusal of service until inspection is permitted. Inspection may include requirement that plumbing and piping plans be submitted where, in the director's opinion, possibility of system contamination or cross-connection may result from service connection. In no case shall service connection be made until all inspection requirements are met.

~~(Code 1976, § 6-1056)~~

**Sec. 25-87107. - Refusal of service.**

Water service may be refused only for the following justifications; reapplication may be made where reasons are rectified:

- (1) *Refusal to allow entry.* Where admittance to property for necessary work or inspection is not allowed, the county water service provider may refuse service.
- (2) *Damage to system by connection.* Where, in the opinion of the city or the water service provider, county that connection will seriously reduce system pressure and fire protection, the county water service provider may refuse service.
- (3) *Remoteness from system.* Where connection requires investment in transmission mains that would not be justified by likely revenues, the board of commissioners water service provider may refuse service or require substantial cost sharing by the customer.
- (4) *Technical infeasibility.* Where connection would require special pumps or other devices to effect service, the board of commissioners water service provider may refuse service or require substantial cost sharing by the customer.
- (5) *Health hazard.* Where connection could cause contamination of the system, the county water service provider may refuse service.

- (6) *Unpaid water bills.* New connections or reconnections shall not be made until all previous financial obligations to the system have been met or resolved. This paragraph only applies to owner-occupied property.
- (7) *Fraudulent misrepresentation in application.* If water service has been approved for a location, and thereafter it is determined that the application for the water service contained false or misleading information or omitted material facts, or that the water is being used in or upon the premises for purposes not set forth in the application made for the water service, then the water shall be shut-off by the countywater service provider, and shall remain shut-off ~~by the county~~, until the application for water service has been corrected to the satisfaction of the ~~director of finance~~ water service provider or until all unauthorized use of water has ceased and any past due sums payable for the water service account have been fully paid to the countywater service provider.

~~(Code 1976, § 6-1057; Ord. No. 17-03, Pt. I, 7-22-03)~~

**Sec. 25-88108. - Customer-requested termination.**

A customer shall give at least ten (10) days' notice of desire to terminate service to the ~~finance-director~~ water service provider, ~~wh~~och will advise the customer of approximate date. However, the countywater service provider is not bound to terminate on a certain date. Service turnoff shall be done only by an authorized person.

~~(Code 1976, § 6-1058)~~

**Sec. 25-89109. - Termination due to violations of operating and maintenance procedure.**

- (a) If the countywater service provider determines that procedures established by the countywater service provider for operating and maintaining the system are being violated by a user or other person, ~~the county~~the provider will give due notice as ~~provided herein~~stated in this section. If such violation continues, service to the responsible person shall be terminated and penal actions as provided herein may be taken.
- (b) Assessments of all penalties shall be preceded by due notice, except in case of emergency requiring termination of service. Due notice shall be given by a certified letter, return receipt requested, mailed to the person presumed to be violating a section of this article. This notice shall set forth remedial action required of that person, giving ten (10) days' time after receipt of due notice for remedial action to be completed. If the countywater service provider determines after this period that the violation continues unremedied, the ~~director~~water service provider may recommend to the proper authorities that the presumed violator be cited for each day that the violation continues unresolved not including the ten-day period.
- (c) When due notice is given for purpose of access for surveys or inspection, acknowledgement and agreement to allow entry shall be made within the same ten (10) days and no offense is presumed. Thereafter, the ~~county~~City or its authorized agents may issue citations by certified letter for each day of violation now presumed only after issuing a second due notice for violation as outlined above.

~~(Code 1976, § 6-1059)~~

**Sec. 25-9110. - Termination due to improper usage.**

- (a) The making of improper connections to the system endangering system integrity or possibly leading to system contamination shall be cause for immediate termination of service. Restoration of service after rectification of improper connection shall be treated as a reconnection. Improper usage not determined by the ~~county~~ city or the water service provider to be of emergency potential shall result in termination after due notice is given.
- (b) Assessments of all penalties shall be preceded by due notice, except in case of emergency requiring termination of service. Due notice shall be given by a certified letter, return receipt requested, mailed to the person presumed to be violating a section of this article. This notice shall set forth remedial action required of that person, giving ten (10) days' time after receipt of due notice for remedial action to be completed. If the ~~county~~ city or the water service provider determines after this period that the violation continues unremedied, the ~~county~~ city or the water service provider may recommend to the proper authorities that the presumed violator be cited for each day that the violation continues unresolved not including the ten-day period.
- (c) When due notice is given for purpose of access for surveys or inspection, acknowledgement and agreement to allow entry shall be made within the same ten (10) days and no offense is presumed. Thereafter, the ~~county~~ city or its authorized agents may issue citations by certified letter for each day of violation now presumed only after issuing a second due notice for violation as outlined ~~above~~ in this section.
- (d) Any person or user of the system who has been found to be in violation of mandatory water restrictions or mandatory water conservation policies as imposed by the director shall first be issued a notice of violation. If the violation is not remedied within a specified reasonable time to be determined by the director, a summons shall be issued for the violator to appear in ~~recorder's~~ municipal court. If the person or user of the system continues to be in violation of mandatory water restrictions or mandatory water conservation policies thereafter, the continuing violation shall be cause for immediate termination of service. Restoration of service after rectification shall be treated as a reconnection.

~~(Code 1976, § 6-1060; Ord. No. 00-74, 6-27-00)~~

**Sec. 25-9111. - Violations and penalties.**

- (a) Whenever the ~~director~~ city or its authorized agents determines that a violation of this article has occurred, ~~the director shall serve upon the violator~~ a notice of violation shall be served upon the violator. The notice of violation shall be in writing, include a description of the property sufficient for identification of where the violation has occurred, list the provisions of this article which have been violated, and state that, if the violation is not remedied within a specified reasonable time to be determined by the director, a summons shall be issued for the violator to appear in ~~recorder's~~ municipal court. The notice of violation shall set forth the



potential penalty involved and the fact that each day the violation continues shall constitute a new and separate violation.

- (b) If the violation has not been remedied within the time specified in the notice of violation, the director shall issue a summons to the violator to appear in ~~reeorder's~~municipal court. The summons shall be in writing, include a description of the property sufficient for identification of where the violation has occurred, list the provisions of this article which have been violated, set forth the penalty if the violator is convicted of the violation, and state that each day the violation continues shall constitute a new and separate violation.
- (c) Notwithstanding the foregoing, ~~the director may issue the city or its authorized agents may issue a summons to the violator~~ to appear in ~~reeorder's~~municipal court or may terminate connection to the water system without first issuing a notice of violation if, in the judgment of the ~~director~~city or such agents, the violation constitutes a threat to the public health, safety, general welfare, or to the water system. Nothing in this code section shall limit the authority of the ~~city or its authorized agents~~director to take any action, including emergency action to terminate connection to the water system or any other enforcement action, without first issuing a notice of violation.
- (d) Any person who shall do anything prohibited or fail to do anything required by the provisions of this article shall be guilty of a violation of this article and upon conviction in recorder's court shall be subject to the maximum fine or imprisonment or both as set forth in section 1-~~4011~~ of this Code. Each day of violation is considered a separate offense and is subject to the maximum fine or imprisonment or both as set forth in section 1-~~4011~~ of this Code.

~~(Ord. No. 00-74, 6-27-00)~~

**Sec. 25-~~92112~~. - Authority to write summons.**

The director may designate authorized personnel of the department to write summons to appear before a court pertaining to violations of this article.

~~(Ord. No. 00-74, 6-27-00)~~

**Secs. 25-~~9113~~—~~25-10120~~. - Reserved.**

**DIVISION 46. - RATES AND CHARGES**

**Sec. 25-~~1021~~. - Generally.**

- (a) All water system rates and charges shall be as established by action of the ~~board of commissioners, a copy of which is on file in the office of the clerk of the board of commissioners, upon recommendation by the director~~water service provider and its governing authority.
- (b) Procedures for revenue collection shall be established by the ~~finance director~~water service provider.

**Sec. 25-1022. - Classification of users.**

The following list of system users establishes classifications of service as a basis of charges:

- (1) *Single.* All dwelling, commercial and industrial customers are in this classification who use all of the water supplied through a connection for any use besides fire protection.
- (2) *Fire line.* A customer shall only use the connection applied for under this classification for fire protection.
- (3) *Combined potable and fire line.* Any shopping center and/or other development served by a combination potable and fire line located outside the public right-of-way shall be classified as a combined potable and fire line user, where either of the following exists:
  - a. A fire line main is served through a master meter with potable water service taken from that fire line main within the development.
  - b. Potable water is taken from the fire line through multiple meters.
- (4) *Multiple.* No multiple dwelling, commercial or industrial customers shall be on one (1) meter, except in case of apartments, shopping centers and office parks, where in the judgment of the director multiple meters are impractical. Approved multiple category customers shall have one (1) meter per premises and shall be charged as single category users.
- (5) *Temporary.* Temporary use permits shall be granted for periods not exceeding thirty (30) days. After permit expiration the county water service provider may, at its option, renew the permit or assign the customer to a permanent classification. This service shall not be used for permanent installation.
- (6) *Flat rate.* Any existing flat rate customers shall be changed to single or fire line as appropriate. There shall be no unmetered or flat rate customers except as provided under temporary and fire line classifications.
- (7) *Contract.* Contract users shall include only counties and incorporated municipalities with separate water systems. The service is provided by agreement.
- (8) *Illegal.* Any user who has not made application for service and received a service connection or whose service has been terminated or who uses a connection for purposes other than as provided in the user's assigned classification is an illegal user.

~~(Code 1976, § 6-1072)~~

**Sec. 25-1023. - Recurring charges.**

The following charges are set by the ~~board of commissioners~~ water service provider or its governing authority and shall be billed on a recurring basis as continuing charges:

- (1) *Service.* All classifications of users except fire line shall be billed a base charge for service availability, whether service is used or not. This charge shall be fixed on the basis of meter size. For combined potable and fire line users who provide a specific means of determining the requirements of the development, such as by the installation of private meters by the owner, the service charge shall be based on the number and size of private meters installed.
- (2) *Commodity.* All classifications of users except fire line shall be billed a commodity charge in addition to a service charge on the basis of actual volume of water delivered at the single unit volume rate set by the ~~board of commissioners~~water service provider or its governing authority.
- (3) *Fire line.* Fire line customers shall be billed for service availability on the basis of diameter of connection to system mains and number of fire hydrants on premises. If a building complex has establishments each with different owners, then the fire line charges will be prorated by the director based on square footage protected. For combined potable and fire line users:
  - a. Where fire hydrants are installed on private lines served through a master meter and/or where such lines serve building sprinkler systems, the owner will be billed for fire service availability on the basis of diameter of connection required to the system mains for fire protection only and on the number of hydrants. There will be no charge, however, for any hydrant which is determined by the ~~county~~city or the water service provider to be adjacent to and available to a public roadway. In addition, potable water readiness to serve charge will be based on the size line required for estimated average flow based on commodity billing as determined by the ~~county~~water service provider.
  - b. Where an owner elects to dedicate lines and rights-of-way outside the public road right-of-way in order to utilize multiple meters and where such lines have hydrants installed or serve building sprinkler systems, the owner will be billed for fire service availability on the basis of diameter of connection required to the system mains for fire protection only and on the number of fire hydrants. There will be no charge, however, for any hydrant which is determined by the ~~county~~city or the water service provider to be adjacent to and available to a public roadway. If a building complex has establishments each with different owners, then the fire line charges will be prorated by the ~~county~~water service provider based on square footage protected.
- (4) *Contract.* Contract service is only by agreement. Billing shall be on the basis of a service charge plus metered volume of water delivered at the unit volume rate set by the ~~board of commissioners~~water service provider or its governing authority. Billing shall be at equal periods set by the ~~board~~water service provider or its governing authority and not less than semiannually.

**Sec. 25-1024. - Miscellaneous charges.**

- (a) Certain non-continuous services provided by the county water system have set charges as designated by the county. Charges shall be reviewed from time to time to assure that they cover the cost of services.
- (b) A charge shall be set by the board for installing a service line and meter based on the size of the meter. This charge shall apply to all classifications except fire line users.

~~(Code 1976, § 6-1074)~~

**Sec. 25-1025. - Special assessments.**

The following charges must be ascertained by the director on a case-by-case basis reflecting exigencies involved:

- (1) *Damage.* The countywater service provider shall determine charges to be assessed against any person causing damage to any part of the water system.
- (2) *Unauthorized activity.* Such actions include any connection to or tampering with the system without prior approval of the countywater service provider. Charges assessed shall reflect the countywater service provider's assessment of costs involved in inspecting such work or in taking remedial action. Additionally, persons involved shall be assessed such charges as would apply were the work preauthorized and shall be subject to other penalties.
- (3) *Replacement of improvements.* Persons engaged in work affecting or connecting to the system shall bear the total cost of replacement of any improvements or for making such improvements whole again. These include, but are not limited to, grassing, embankments, pavement and base curbing to countycity standards. After due notice, the countycity may elect to proceed with restorative work and charge the damaging person on a materials and force account basis.
- (4) *Service termination.* A single charge shall be set for termination of service whether initiated by the customer or by the countywater service provider. Customers relocating within the system service area must terminate old service and make new application.
- (5) *Reconnection fee.* A charge shall be set for resumption of service to a customer where termination was due to failure to pay bills. New or relocated customers using an existing service line are charged under this paragraph. All previous bills shall be paid before a service reconnection will be made. This paragraph only applies to owner-occupied property.
- (6) *Meter testing.* The countywater service provider may periodically test all meters on its system. A customer may request a test to be made without charge.
- (7) *Tap fee.* A fee shall be set by the countywater service provider for providing a connection for a service line or water main to an existing or new water main. Fee shall be based on diameter of service line or water main to be connected to the tap.

- (8) *Inspection and sterilization.* The countywater service provider shall establish a list of charges for inspection and line sterilization which shall apply to various categories of construction, duly reflecting force and material requirements.
- (9) *Temporary use.* Temporary use charges shall be set by the countywater service provider on a case-by-case basis; such fees shall be no less than the sum of appropriate recurring charges and miscellaneous charges. Such temporary uses, whether connected to mains or fire hydrants, shall be metered. Fire hydrant connections shall also be approved by the department of fire and rescue services.
- (10) *Other services.* For any services not falling within these definitions, the countywater service provider may fix a charge on the basis of cost of labor and materials required.

~~(Code 1976, § 6-1075; Ord. No. 11-02, Pt. 1, § 2, 11-27-01)~~

**Sec. 25-1026. - Revenue collections.**

- (a) *Payment.* A meter reading of all water meters and fire line checks shall be made by the countywater service provider on a regular basis. All bills are issued by and shall be paid to the ~~finance department~~water service provider. Payment is due within ten (10) days of issuance and may be made by mail or in person at the address noted on the statement. Failure to receive the bill shall not relieve the customer of payment responsibility.
- (b) *Delinquent payment.* Notice of delinquent payment shall require payment within ten (10) days of the date due. Service will be terminated after that period without notice. Failure to receive a bill shall not relieve a customer of payment responsibility.
- (c) *Excess payments and refunds.* Excess payments for all customers shall be credited to the next billing unless service is terminated or written refund request is made.
- (d) *Liability of owner.* When service is terminated to a rented premises, service may be restored to the premises upon request of a party, renter or owner, who is not personally liable for or who did not personally apply for water service previously and who was previously not delinquent in payment of the water bill at these premises.
- (e) *Estimated bills.* The countywater service provider may estimate bills in the case of a broken, inaccurate or inaccessible meter on the basis of previous billings, adding retroactive charges where appropriate.
- (f) *Contested charges.* A customer may make written notice of an error in charges. In such cases the customer shall make payment equal to that portion of charges uncontested or equal to previous billing, whichever is larger, by payment due date. The ~~finance director~~water service provider will review contested charges and adjust the next billing as appropriate. The customer may make written request for a hearing with the ~~director~~water service provider or the ~~director~~water service provider's representative if the review is unsatisfactory. Payment must be made for reviewed contested charges when due. Credit shall be made if findings are reversed by the directorwater service provider, whose decision is final.

- (g) *Discounts.* No discounts shall be made for payments due or for large volume use. Discounts in the form of credits or refunds may be made for change in meter sizes or charged materials returned to the county in satisfactory condition.
- (h) *Application fee.* Any applicant for water or sewer service shall complete an application for service, shall provide the county water service provider with identification for billing purposes, and shall pay an application fee to the county water service provider. Application fees shall be set by the board of commissioners water service provider or its governing authority.

~~(i) —Reserved.~~

~~(Code 1976, § 6-1076; Ord. No. 95-07, § 1, 5-23-95; Ord. No. 97-14, 8-12-97; Ord. No. 01-13, § 1, 7-10-01)~~

~~Secs. 25-10727—25-12530. - Reserved.~~

### ARTICLE III. - PRIVATE WATER SYSTEMS

#### Footnotes:

~~—(3)—~~

~~Cross-reference—Water system requirements in subdivisions, § 14-311 et seq.~~

~~State Law reference—Water Well Standards Act of 1985, O.C.G.A. § 12-5-120 et seq.~~

~~Sec. 25-12631. - Generally.~~

Private water systems and vendors shall be governed by all criteria in this chapter relating to water purity, protection of supply and system sanitation, and shall be licensed by the county water service provider or its designee.

~~(Code 1976, § 6-1081)~~

~~Sec. 25-12732. - Approval of plans.~~

All plans for private water systems shall be prepared by an licensed engineer of the county and approved by the county water service provider prior to construction. Materials of construction shall meet minimum standards set by the county for the public water system.

~~(Code 1976, § 6-1082)~~

~~Sec. 25-12833. - Connection to public water system.~~

No connection shall be made between the ~~county~~public water system and a private water system except by approval of the ~~board of commissioners~~water service provider. Such approved connections shall be metered and equipped with backflow prevention devices approved by the ~~county~~water service provider and subject to all conditions of this chapter.

~~(Code 1976, § 6-1083)~~

**Sec. 25-12934. - No ~~county~~city or water service provider warranty.**

By its regulation of private water systems and suppliers, the ~~county~~city and the water service provider assumes no liability for the purity of such water or for damages caused by operators of private facilities.

~~(Code 1976, § 6-1084)~~

**Secs. 25-1305—25-14550. - Reserved.**

#### ARTICLE IV. - SEWERS AND SEWAGE DISPOSAL

##### Footnotes:

—(4)—

~~Cross reference—Jurisdiction of sewer department, App. B, § 1551; on-site sewage disposal systems, § 13-246 et seq.; sewer systems in subdivisions, §§ 14-351 et seq., 14-396 et seq.~~

~~State Law reference—Constitutional grant of power to provide for sewage collection and disposal systems, Ga. Const. art. IX § II, ¶ III(a)(6); Georgia Water Quality Control Act, O.C.G.A. § 12-5-20 et seq.~~

##### DIVISION 1. - GENERALLY

**Sec. 25-14651. - 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:

*Approval authority* means the Environmental Protection Division of the Georgia Department of Natural Resources, Municipal Permitting Program.

*Authorized person* means a regular employee of the ~~county~~city or its agents authorized to enforce the provisions of this article.

*Authorized representative of the user:*

- (1) If the user is a corporation:

- a. The president, vice-president, secretary, or treasurer of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or
  - b. The manager of one (1) or more manufacturing, production or operation facilities employing more than two hundred fifty (250) persons or having gross annual sales or expenditures exceeding twenty-five million dollars (\$25,000,000.00) (in second-quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.
- (2) If the user is a partnership or sole proprietorship: a general partner or proprietor, respectively.
  - (3) If the user is a federal, state or local government facility: a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or his/her designee.
  - (4) The individuals described in paragraphs (1) through (3), above, may designate another authorized, representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company, and the written authorization is submitted to the department.

*Biochemical oxygen demand (BOD)* ~~(biochemical oxygen demand)~~ means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures for five (5) days at two hundred (200) centigrade, usually expressed as a concentration (e.g., mg/l).

*Building drain* means that part of the lowest horizontal piping of a drainage system which receives the discharge of wastes from the drainage pipes within the walls of a building and conveys this discharge to the building sewer beginning ten (10) feet outside the inner face of the building.

*Building sewer* means the extension from the building drain to the public sanitary sewer system or other place of disposal.

*Categorical Pretreatment Standard* or *Categorical Standard* means any regulation containing pollutant discharge limits, promulgated by the federal EPA in accordance with Sections 307(b) and (c) of the Federal Clean Water Act (33 U.S.C. § 1317) which apply to a specific category of users and which appear in 40 CFR Chapter I, Subchapter N, Parts 405—471.

*Categorical user* means any significant industrial user that is subject to categorical pretreatment standards.

*Chemical oxygen demand (COD)* ~~(chemical oxygen demand)~~ means the amount of oxygen equivalent that the organic matter in a sample utilizes in the presence of a strong chemical oxidant (expressed in milligrams per liter).

*Combined sewer* means a sewer intentionally receiving groundwaters, surface waters, and stormwaters together with sewage.

*Constituents* means the combination of particles or pollutants which exist in wastes.



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*Control manhole* means a manhole on or near a user's property used for sampling purposes through which the user's discharge to the sanitary sewer passes.

*Department* means the city's public works department or the water service provider.

*Designated area* means any tract of land, parcel of land, subdivision or section of the county which, by virtue of its topography or existing sanitary sewer facilities, can be treated as a unit. The director shall be the sole judge as to the boundaries, limits, and extent of these areas, whether or not these areas abut present public roads.

*Director* means the city's public works director or any of that person's authorized representatives, including an authorized agent of the sewer service provider.

*Environmental Protection Agency or Federal EPA* means the U.S. Environmental Protection Agency or, where appropriate, the Regional Water Management Division director, or other duly authorized official of said agency.

*EPD* means the Environmental Protection Division of the State of Georgia's Department of Natural Resources.

*Existing source* means any source of discharge, the construction or operation of which commenced prior to the publication by the Federal EPA of proposed categorical pretreatment standards which will be applicable to such source if the standard is thereafter promulgated in accordance with Section 307 of the Federal Clean Water Act.

*Federal Clean Water Act or Clean Water Act* shall mean the Federal Water Pollution Control Act, as amended, presently codified at 33 U.S.C § 1250 et seq., and all regulations adopted pursuant thereto.

*Flammable* means any material which is easily ignited and burns with unusual rapidity as defined by the National Fire Protection Association.

*Flush toilet* means the common sanitary flush commode in general use for the disposal of human excrement.

*Garbage* means putrescible animal and vegetable wastes resulting from the domestic and commercial preparation, cooking and disposing of food, and from the handling, storage and sale of produce, tin cans, glass containers and newspapers.

~~*Georgia EPD or EPD* means the Environmental Protection Division of the Georgia Department of Natural Resources.~~

*Grab sample* means a sample which is taken from a wastestream without regard to the flow in the wastestream and over a period of time not to exceed fifteen (15) minutes.

*Indirect discharge or discharge* means the introduction of pollutants into the POTW from any nondomestic source regulated under Section 307(b), (c), or (d) of the Federal Clean Water Act.

*Industrial wastes* means the liquid wastes and solid and gaseous materials contained therein, of whatever nature, arising out of any manufacturing, processing, fabricating, treating, renovating or any other commercial operation.

*Inspection fee* means the amount of money charged to the contractor or plumber for each inspection.

*Instantaneous maximum allowable discharge limit* means the maximum concentration of a pollutant allowed to be discharged at any time, determined from the analysis of any discrete or composited sample collected, independent of the industrial flow rate of the duration of the sampling event.

*Interference* means a discharge, which alone or in conjunction with a discharge or discharges from other sources, inhibits or disrupts the POTW, its treatment processes or operations or its sludge processes, use or disposal, and therefore is a cause of violation of the county's NPDES permit or of the prevention of sewage sludge use or disposal in compliance with any of the following statutory/regulatory provisions or thereunder, stringent regulations: permits issued or any more state or local Section 405 of the Federal Clean Water Act; the Solid Waste Disposal Act, including Title II commonly referred to as the Resource Conservation and Recovery Act (RCRA); any state regulations contained in any state sludge management plan prepared pursuant to Subtitle D of the Solid Waste Disposal Act; the Clean Air Act; the Toxic Substances Control Act; and the Marine Protection, Research, and Sanctuaries Act.

*Lot of land* means the smallest unit, owned by the same party or parties, into which any tract or parcel of land has been divided either by deed, plat or any other means of subdivision.

*Medical waste* means isolation wastes, infectious agents, human blood and blood products, pathological wastes, sharps, body parts, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes and dialysis wastes.

*New source* means:

- (1) Any building, structure, facility or installation from which there is (or may be) a discharge of pollutants, the construction of which commenced after the publication of proposed pretreatment standards under Section 307(c) of the Federal Clean Water Act which will be applicable to such source if such standards are thereafter promulgated in accordance with that section, provided that:
  - a. The building, structure, facility or installation is constructed at a site at which no other source is located; or
  - b. The building, structure, facility or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or
  - c. The production or wastewater generating processes of the building, structure, facility or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is engaged in the same general type of activity as the existing source should be considered.
- (2) Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does-not create a new building, structure, facility or installation meeting the criteria of section (1)b. or c. above but otherwise alters, replaces or adds to existing process or production equipment.

- (3) Construction of a new source as defined under this paragraph has commenced if the owner or operator has:
- a. Begun, or caused to begin, as part of a continuous onsite construction program
    1. Any placement, assembly or installation of facilities or equipment; or
    2. Significant site preparation work including clearing, excavation or removal of existing buildings, structures or facilities which is necessary for the placement, assembly or installation of new source facilities or equipment; or
  - b. Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering and design studies do not constitute a contractual obligation under this paragraph.

*Noncontact cooling water* means water used for cooling which does not come into direct contact with any raw material, intermediate product, waste product or finished product.

*Objectionable* means unacceptable, unsatisfactory or displeasing to the physical senses.

*Outlet* means point of discharge into a watercourse, pond, ditch, lake, stream or other body of surface water or groundwater.

*Pass through* means a discharge which exits the POTW into waters of the United States in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the City's or -the county's NPDES permit, including an increase in the magnitude or duration of a violation.

*Person* means any individual, partnership, copartnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity or any other legal entity; or their legal representatives, agents or assigns. This definition includes all federal, state and local governmental entities.

*pH* means a measure of the acidity or alkalinity of a solution, expressed in standard units.

*Plumbing fee* means that fee paid to the county for the issuance of a plumbing permit.

*Pollutant* means dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, medical wastes, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, municipal, agricultural and industrial wastes, and certain characteristics of wastewater (e.g., pH, temperature, TSS, turbidity, color, BOD, COD, toxicity or odor).

*Premises* means building, house, store, plant or any other place where people live, work or congregate.

*Pretreatment* means the reduction of the amount of pollutants, the elimination of pollutants or the alteration of the nature of pollutant properties in wastewater prior to, or in lieu of, introducing such pollutants into the POTW. This reduction or alteration can be obtained by physical, chemical or biological processes; by process changes; or by other means, except by

diluting the concentration of the pollutants unless allowed by an applicable pretreatment standard.

*Pretreatment requirements* means any substantive or procedural requirement related to pretreatment on a user other than a pretreatment standard.

*Pretreatment standard* or *standards* means prohibited discharge standards, categorical pretreatment standards and local limits.

*Priority pollutant* means any contaminant in water which is identified as being toxic, carcinogenic, mutagenic, teratogenic or is chemically similar to compounds identified as such, by the Federal Environmental Protection Agency. The list includes one hundred twenty-nine (129) compounds and such other compounds as may be added from time to time, less any compound which may be deleted by the Federal Environmental Protection Agency.

*Prohibited discharge standards* or *prohibited discharges* means the absolute prohibitions against the discharge of certain substances.

*Properly shredded garbage* means the wastes from the preparation, cooking and dispensing of foods, which have been cut in such a way that all particles will be carried freely under the flow conditions normally prevailing in public sanitary sewers, with no particle larger than one-half (1/2) inch in any dimension.

*Publicly owned treatment works* or *POTW* means a "treatment works", as defined by Section 212 of the Federal Clean Water Act (33 U.S.C. § 1292) which is owned by the county. This definition includes any devices or systems used in the collection, storage, treatment, recycling and reclamation of sewage or industrial wastes of a liquid nature and any conveyances which convey wastewater to a treatment plant.

*Public sewer* means a common sanitary sewer directly controlled by the county and approved by the county for use as a sanitary sewer.

*Sanitary sewer* means a pipe which carries sewage and by design excludes groundwaters, surface waters and stormwaters.

*Septic tank* means a subsurface impervious tank designed to temporarily retain sewage or similar waterborne wastes together with the following:

- (1) A sewer line constructed with unperforated pipe, with sealed joints, connecting the impervious tank with a plumbing stub-out.
- (2) A subsurface drainage field system consisting of piping and other materials producing drainage of the clarified discharge from the tank while distributing it underground to be filtered or absorbed.

*Sewage* means the water-carried wastes, including human excrement and grey water (household showers, dishwashing operations, etc.) from residences, business buildings and institutions.

*Sewer* means an artificial, usually subterranean, conduit to carry off sewage.

*Sewer system* and *sewerage* means all facilities for collecting, pumping, treating, transporting and disposing of sewage.

Sewer system provider means the city or any state, municipal or county government, department, or authority or any agency or authority which owns and/or operates the sewer system and sewer treatment facilities with whom the city has entered into intergovernmental agreement(s) or contract(s) to provide sewerage services within the boundaries of the city.

*Sewer tap fee* or *tap fee* means the service charge for making a connection to the sewer system.

*Significant industrial user* means:

- (1) A user subject to categorical pretreatment standards; or
- (2) A user that:
  - a. Discharges an average of one hundred thousand (100,000) gallons per work month or twenty-five thousand (25,000) gallons per day of process wastewater to the POTW (excluding sanitary, noncontact cooling and boiler blowdown wastewater);
  - b. Contributes a process wastestream which makes up five (5) percent or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or
  - c. Is designated as such by the county on the basis that it has a reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement.
- (3) Upon finding that a user meeting the criteria in subsection (2) has no reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement, the county may at any time, on its own initiative or in response to a petition received from a user, and in accordance with procedures in 40 CFR 403.8(f)(6), determine that such user should not be considered a significant industrial user.

*Slug load* or *slug* means any discharge at a flow rate or concentration which could cause a violation of the prohibited discharge standards of this ordinance; or, any discharge in which the concentration of any given constituent exceeds, for any period longer than fifteen (15) minutes, five (5) times the average twenty-four-hour concentration of that constituent during normal operations.

*Storm drain* or *storm sewer* means a sewer which carries stormwaters and surface waters and drainage, excluding sewage and industrial wastes.

*Stormwater* means any flow occurring during or following any form of natural precipitation and resulting from such precipitation, including snowmelt.

*Subdivision* means any tract of land divided, planned or developed as a subdevelopment with two (2) or more residences, buildings or building sites.

*Suspended solids* means solids that either float on the surface of or are in suspension in water, sewage or other liquids, and which are removable by laboratory filtering.

*Tap fee* or *sewer tap fee* means the service charge for making a connection to the sewer system.

*Unsanitary* means unclean, unhealthy or harmful to the public health.

*User or industrial user* means a source of indirect discharge.

*Wastewater* means the liquid and water-carried industrial wastes and sewage from residential dwellings, commercial buildings, industrial and manufacturing facilities and institutions, whether treated or untreated, which are contributed to the POTW.

*Wastewater discharge permit* means a permit in the form prescribed by the City or the county, which establishes the wastewater characteristics which a significant industrial user may contribute or cause to be contributed to the sewer system.

*Wastewater treatment plant or treatment plant* means that portion of the POTW which is designed to provide treatment of municipal sewage and industrial waste.

*Watercourse* means a channel in which a flow of water occurs, either continuously or intermittently.

~~(Code 1976, § 6-2002; Ord. No. 97-05, § 1, 3-11-97)~~

~~Cross reference—Definitions and rules of construction generally, § 1-2.~~

**Sec. 25-14752. - Certain agreements unaffected.**

Nothing in this Code or the ordinance adopting this Code affects the validity of:

- (1) The Standards of Acceptability for Sewage Discharged into the Metropolitan Sewer System being annex C to the Metropolitan Sewer Agreement between the City of Atlanta and DeKalb County, dated July 16, 1968.
- (2) The Sewer Agreement between DeKalb County and Gwinnett County, dated May, 1971.
- (3) The DeKalb-Clayton Conley Creek Drainage Area Sewer Agreement, dated November 13, 1973.

~~(Code 1976, § 6-2142)~~

**Sec. 25-14853. - Violations and penalties.**

- (a) Whenever the director determines that a violation of this article has occurred, the director shall serve upon the violator a notice of violation. The notice of violation shall be in writing, include a description of the property sufficient for identification of where the violation has occurred, list the provisions of this article which have been violated, and state that, if the violation is not remedied within a specified reasonable time to be determined by the director, a summons shall be issued for the violator to appear in recorder's court. The notice of violation shall set forth the potential penalty involved and the fact that each day the violation continues shall constitute a new and separate violation.
- (b) Notwithstanding the foregoing, the director may issue a summons to appear in recorder's court without first issuing a notice of violation if, in the judgment of the director, the

violation constitutes a threat to the public health, safety, general welfare, or to the sewer system.

- (c) If the violation has not been remedied within the time specified in the notice of violation, the director shall issue a summons to the violator to appear in ~~recorder's~~municipal court. The summons shall be in writing, include a description of the property sufficient for identification of where the violation has occurred, list the provisions of this article which have been violated, set forth the penalty if the violator is convicted of the violation, and state that each day the violation continues shall constitute a new and separate violation.
- (d) Nothing in this code section shall limit the authority of the director to take any action, including emergency action or any other enforcement action, without first issuing a notice of violation.
- (e) Any person who shall do anything prohibited or fail to do anything required by the provisions of this article shall be guilty of a violation of this article and upon conviction in ~~recorder's~~municipal court shall be subject to the maximum fine or imprisonment or both as set forth in section 1-~~4011~~ of this Code. Each day of violation is considered a separate offense and is subject to the maximum fine or imprisonment or both as set forth in section 1-~~4011~~ of this Code.

~~(Code 1976, § 6-2141; Ord. No. 97-05, § 1, 3-11-97)~~

**Sec. 25-14954. - Authority to write summons.**

The director may designate authorized personnel of the department to write summons to appear before a court to answer questions pertaining to violations of this article.

~~(Code \_\_\_\_\_ 1976, \_\_\_\_\_ § \_\_\_\_\_ 6-2131)~~

**Sec. 25-1505. - Right of entry: inspection and sampling of industrial or commercial properties.**

The director and other employees designated by the director, bearing proper credentials and identification, shall have the right to enter the premises of any user to determine whether the user is complying with all requirements of this ordinance and any wastewater discharge permit or order issued hereunder. Users shall allow the director or his designees ready access to all parts of the premises for the purposes of inspection, sampling, records examination and copying and the performance of any additional duties.

- (1) Where the user has security measures in force which require proper identification and clearance before entry into its premises, the user shall make necessary arrangements with its security guards so that, upon presentation of suitable identification, the director or his designees will be permitted to enter without delay for the purposes of performing specific responsibilities.

- (2) The director or his designees shall have the right to set up on the user's property, or require installation of, such devices as are necessary to conduct sampling and/or metering of the user's operation.
- (3) The director may require the user to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the user at its own expense. All devices used to measure wastewater flow and quality shall be calibrated quarterly to ensure their accuracy.
- (4) Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the user at the written or verbal request of the director or his designees and shall not be replaced. The costs of clearing such access shall be borne by the user.
- (5) Unreasonable delays in allowing the director or his designees access to the user's premises shall be a violation of this ordinance.
- (6) If the director or his designees has been refused access to a building, structure or property, or any part thereof, and is able to demonstrate probable cause to believe that there may be a violation of this ordinance, or that there is a need to inspect and/or sample as a part of a routine inspection and sampling program of the county designed to verify compliance with this ordinance or any permit or order issued hereunder, or to protect the overall public health, safety and welfare of the community, then the director may seek issuance of an inspection warrant through the ~~county attorney from recorder's court~~ municipal court or other court of competent jurisdiction.

(Code 1976, § 6-2132; Ord. No. 97-05, § 1, 3-11-97)

**Sec. 25-1516. - Right of entry to inspect private properties.**

- (a) The director and the director's designated agents, bearing proper credentials and identification, shall be permitted to enter during reasonable working hours, except in the event of an emergency, all private properties through which the city or the county holds a duly negotiated easement for the purposes of, but not limited to, measurement, maintenance, observation, repair and sampling any portion of the sewage system lying within the easement. All entry and subsequent work on the easement shall be done in full accordance with the terms of the specific easement pertaining to the property involved. Specific permission is granted the director and the director's designated agents, upon proper notification, to enter all private properties for the purpose of surveying or inspecting the premises, or sampling or monitoring of wastewater. While working on private properties referred to in this section, all employees of the city or the sewer system provider ~~county~~ employees shall observe all safety rules applicable to the premises. The owner of the private properties shall not be held liable for injury to any employee of the city or the sewer system provider while said employee is ~~county employees while~~ on the owner's properties.
- (b) The city or the sewer system provider ~~county~~ and its authorized agents and employees may enter upon any lands in the ~~county~~ city for the purpose of making such surveys, soundings,



drillings, and examinations as the ~~county~~city or the sewer system provider may deem necessary or desirable to accomplish the purposes of planning and engineering sewer system improvements; and such entry shall not be deemed a trespass nor shall it be deemed an entry which would constitute a taking in a condemnation proceeding, providing that reasonable notice of such entry shall be done in a reasonable manner with as little inconvenience as possible to the owner or occupant of the property, and the ~~county~~city or the sewer system provider shall make reimbursement for any actual damages resulting from such entry.

~~(Code 1976, § 6-2133; Ord. No. 91-25, 10-8-91)~~

**Sec. 25-1527. - Inspection warrants.**

The director, in addition to other procedures provided, may obtain an inspection warrant for the purpose of inspection or investigation of conditions relating to the enforcement of this article, compliance with the terms of any permit, or observation, measurement, sampling or testing with respect to any federal or state regulation, and periodic investigations in accordance with the provisions of this article.

- (1) Inspection warrants may be issued by ~~the recorder's court~~ a court of competent jurisdiction when the issuing judge is satisfied that the director has established by oath or affirmation that the property to be inspected is to be inspected as a part of a legally authorized program of inspection that includes the property or that there is a condition, object, activity, or circumstance which legally justifies such an inspection of the property.
- (2) An inspection warrant will be validly issued only if it meets the following requirements:
  - a. The warrant is attached to the affidavit required to be made in order to obtain the warrant.
  - b. The warrant describes, either directly or by reference to the affidavit, the property upon which the inspection is to occur and is sufficiently accurate that the executor of the warrant and the owner or occupant of the property can reasonably determine from it the property for which the warrant authorizes an inspection.
  - c. The warrant indicates the conditions, objects, activities or circumstances which the inspection is intended to check or reveal.
  - d. The warrant refers, in general terms, to the Code provisions sought to be enforced.

~~(Code 1976, § 6-2143; Ord. No. 97-05, § 1, 3-11-97)~~

**Sec. 25-1538. - Discontinuance of water service for nonpayment of sewer bill.**

- (a) This section only applies to owner-occupied property. The policy of discontinuing the furnishing of water at any meter service where there is a delinquent sewer bill after the

occupant of the premises has been notified of the delinquency and has failed to remove the delinquency by payment of the bill is continued in full force and effect.

- (b) Where there remains a delinquent sewer bill at any meter service after the occupant of the premises thereof has been notified by the inclusion of the amount of the past due bill in a current water bill or a separate bill and given an opportunity to pay the bill and refuses to promptly pay it, water service to this meter service shall be discontinued regardless of whether the bill remaining delinquent was incurred by a prior owner or occupant of the premises, and the county shall not again supply water to this building, place or premises until the arrears are fully paid.
- (c) Upon the failure or refusal of the owner or occupant to pay the delinquent sewer bill, the ~~department~~water service provider shall remove the meter serving the premises, and service shall not be restored to the premises until a fee for installation of a new meter has been paid in advance. Such fee shall be a fee in the amount established by action of the ~~board of commissioners, a copy of which is on file in the office of the clerk of the board of commissioners~~water service provider or its governing authority.

~~(Code 1976, § 6-2003; Ord. No. 97-05, § 1, 3-11-97)~~

**Sec. 25-1549. - Mandatory connections to public sanitary sewer.**

- (a) The owner of all houses, buildings or properties used for human occupancy, employment, recreation and other such purposes, located within the jurisdiction of the ~~board of commissioners~~city and abutting on any street, alley or right-of-way in which there is now located a public sanitary sewer, is required to install, at the owner's expense, suitable toilet facilities, and to connect such facilities directly to the public sanitary sewer. In accordance with the provisions of this article, the owner has twenty-four (24) months after the date of official notice to accomplish this, provided that the public sanitary sewer is within one hundred (100) feet of the property line.
- (b) Exceptions to the provisions of subsection (a) of this section may be granted by the ~~county~~city or its authorized agent upon application.

~~(Code 1976, § 6-2031; Ord. No. 97-05, § 1, 3-11-97)~~

**Sec. 25-15560. - Private sewage disposal facilities generally.**

Except as specifically permitted by this article or by the board of health, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool or other similar facility intended or used for the disposal of sewage.

~~(Code 1976, § 6-2032; Ord. No. 97-05, § 1, 3-11-97)~~

**Sec. 25-15661. - Discharge of untreated sewage or polluted waters.**

It shall be unlawful to discharge to any outlet or to any portion of the public storm drain system, or to any natural stream within the jurisdiction of the ~~board~~city, any sewage or other polluted waters, except where suitable treatment has been provided in accordance with provisions of this article. Nothing in this section shall be construed to require the city or the county to treat the outflow from the public storm drain system.

~~(Code 1976, § 6-2033; Ord. No. 97-05, § 1, 3-11-97)~~

**Sec. 25-15762. - Deposit of objectionable wastes on public or private property.**

It shall be unlawful for any person to place, deposit or permit the deposit of, in any unsanitary manner, human or animal excrement, garbage or objectionable wastes on any public or private property within the jurisdiction of the ~~board of commissioners~~city.

~~(Code 1976, § 6-2034; Ord. No. 97-05, § 1, 3-11-97)~~

**Sec. 25-15863. - Nonavailability of public sanitary sewer.**

Where a public sanitary sewer is not available, the building sewer shall be connected to another means of sewage disposal. The private sewage disposal system must comply with all applicable regulations of the department, the county board of health, and the Georgia Department of Human Resources. Unless specific exceptions are made, a private sewage disposal facility in the ~~county~~city shall consist of an approved septic tank.

~~(Code 1976, § 6-2035; Ord. No. 97-05, § 1, 3-11-97)~~

**Sec. 25-15964. - General prohibition.**

It shall be a violation of this article for any person to maliciously or negligently break, damage, destroy, deface or tamper with any part of the sewer system.

~~(Ord. No. 97-05, § 1, 3-11-97)~~

**Sec. 25-1605. - Severability.**

If any term, requirement or provision of this division or application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this division or the application of such terms, requirements and provisions to persons or circumstances other than those to which it is held invalid or unenforceable, shall not be affected thereby and each term, requirement or provision of this division shall be valid and be enforced to the fullest extent permitted by law.

~~(Ord. No. 97-05, § 1, 3-11-97)~~

**Secs. 25-1616—25-175. - Reserved.**

**DIVISION 2. - SEWER CONSTRUCTION AND ASSESSMENTS FOR NEW DEVELOPMENTS**

**Footnotes:**

~~(5)~~

~~Editor's note — Ord. No. 17-05, Pt. I, adopted Nov. 14, 2017, repealed Div. 2 in its entirety to read as herein set out. Former Div. 2, §§ 25-176—25-193 pertained to sewer construction and assessments, and derived from the 1976 Code, §§ 6-2092—6-2109; Ord. No. 89-16, § 2, adopted April 11, 1989; Ord. No. 91-27, adopted Nov. 12, 1991; and Ord. No. 92-20, adopted July 28, 1992.~~

**Sec. 25-176. - Compliance with agreements.**

The operation of the sanitary sewer system shall remain in compliance with all sanitary sewer usage agreements between the ~~county~~city and ~~other~~any county, and ~~other~~ municipal governments and/or ~~any other governmental~~ agencies.

~~(Ord. No. 17-05, Pt. I, 11-14-17)~~

**Sec. 25-177. - Sanitary sewer main extensions.**

- (a) The county sanitary sewer main extension policy shall apply to the extension or replacement of existing sanitary sewer mains on existing ~~county~~city roads or other dedicated rights-of-way to serve new developments. A developer may request the application of this policy if a project site is not adjacent to an existing main or the existing main is inadequate to serve the proposed development.
- (b) The developer may apply for preapproval of the sewer main extension application with the understanding that such reimbursement shall be made only after the developer has complied with all the requirements of this section. Conversely, the developer may apply for reimbursement after complying with all the requirements of this section and such reimbursement shall be made on approved applications if funds are available for that purpose. Approval of all application requests shall be within the sole discretion of the ~~governing authority~~county or, if designated by agreement, the City.
- (c) Sanitary sewer mains approved and installed under this section shall be subject to the following conditions:
  - (1) All materials shall meet the specifications of the ~~water and sewer division of public works~~sewer system provider.
  - (2) A sanitary sewer main design shall be prepared by and furnished to the ~~county~~sewer system provider by a registered professional engineer licensed by the state.
  - (3) The developer shall contract for the installation of the sewer lines and shall furnish the ~~county~~city and the sewer system provider a copy of the contract. When the work

has been completed according to the county sewer system provider's specifications and duly inspected by the county city or the sewer system provider, the developer shall provide "as-built" drawings and any required easements of the sewer main installation to the county sewer system provider. As-built drawings shall be completed under the direction of an engineer/land surveyor licensed in the State of Georgia and sealed.

- (4) After the work has been completed and inspected to the satisfaction of the county city or the sewer system provider, the developer shall provide to the sewer system provider a maintenance bond equal to ten (10) percent of the costs of the construction of such facilities. The developer may provide a letter of escrow or letter of credit acceptable to the county sewer system provider in lieu of the maintenance bond required in this section.
- (5) After receiving the maintenance bond, letter of escrow or letter of credit, the county sewer system provider shall reimburse the developer a sum equivalent to fifty (50) percent of the cost of the sewer main materials required to supply the proposed development. An eight-inch main will be considered as the minimum size main required to supply a development of any size. In the event the county sewer system provider's plans for future sewer service call for a sewer main to be installed larger than the size of the main required to supply the development, then the county sewer system provider may:
  - a. If the size of sewer main planned by the county is fifteen (15) inch[es] or smaller, pay the difference in cost of the materials to install the size main required by the county sewer system provider's plans.
  - b. If the size of sewer main planned by the county is greater than fifteen (15) inch[es], pay the difference in both the cost of labor and materials to install the size main required by county the sewer system provider's plans.
- (6) The developer shall be required to maintain the sanitary sewer lines for a period of twelve (12) months. During this developer maintenance period, the county sewer system provider shall make inspections and instruct the developer by letter as to what corrections must be made, if any.
- (7) At the end of the twelve-month developer maintenance period, the county sewer system provider shall make a final inspection and notify the developer and the bonding company, if any, of any corrections to be made. If the work is acceptable at this time, the maintenance bond, letter of escrow or letter of credit shall be released.
- (8) If required corrections are not made within thirty (30) days of notice, the county sewer system provider shall have the authority to make these corrections at the expense of the bonding company. In cases where funds are being held under letter of credit or letter of escrow, the cost of making these corrections shall be drawn by the county sewer system provider from these funds, and the developer charged with any costs above the amount of such funds.
- (9) The county sewer system provider shall have the full authority to inspect and test all sanitary sewer mains installed under this section.
- (10) No use shall be made of such systems nor shall the county sewer system provider accept such systems until the developer has complied with all the requirements of this

section and until satisfactory tests and inspections have been completed by the county sewer system provider.

(11) In calculating county sewer system provider participation for material costs, the maximum material costs considered will be the county sewer system provider's contract price for like material.

(d) Private sanitary sewer extensions will not be accepted for maintenance by the county sewer system provider unless materials used for installation are inspected and approved by the county sewer system provider prior to construction and are found to meet the sewer system provider's specifications and unless the installation was inspected by the city or the sewer system provider during construction.

~~(Ord. No. 17-05, Pt. I, 11-14-17)~~

~~Secs. 25-178—25-184.—Reserved.~~

~~DIVISION 2.5.—SPECIAL SEPTIC TANK TO SEWER CONVERSION TAX  
DISTRICT—SEWER EXTENSIONS FOR EXISTING DEVELOPMENTS~~

~~Sec. 25-185.—Purpose, intent and legislative findings.~~

- ~~(a) The governing authority of DeKalb County is tasked with the protection and preservation of the health, safety and welfare of the citizens of the county.~~
- ~~(b) Certain areas within the county are served by septic tanks, many of which are old and may potentially fail.~~
- ~~(c) If a septic tank is deficient and in need of repair, seepage and overflows of sewage can occur.~~
- ~~(d) The governing authority finds that failing septic tanks may create potentially significant public health and safety hazards for all residents of the county and that the long term welfare of all the residents of DeKalb County is served by greater accessibility to public sewer. The governing authority further finds that the water quality of DeKalb County's waterways can be improved by connecting existing homes and businesses on septic tanks to public sewer. The governing authority finds that costs associated with connecting to the public sewer can be burdensome and, thus, it is in the best interests of all residents of the county to assist in the connection of existing homes and businesses on septic tanks to the county's public sewer system.~~
- ~~(e) The governing authority intends for division 2.5 to encourage extension of public sewer up to and into developed areas.~~
- ~~(f) To achieve this public purpose, the governing authority wants to make available a cost-sharing process to connect existing homes and businesses on septic tanks to the county's public sewer system when a sanitary sewer must be laid.~~
- ~~(g) Article IX, section II, paragraph VI of the Georgia Constitution gives the governing authority the power to create special districts for the provision of local government services within such districts, and to levy and collect taxes within such districts to pay for the cost of providing such services.~~
- ~~(h) Nothing in this division shall be construed to require the governing authority to approve any petition submitted and it shall be in the sole legislative judgment of the governing authority to approve any submitted petition.~~

~~(Ord. No. 17-05, Pt. I, 11-14-17)~~

~~Sec. 25-186. - Compliance with agreements.~~

~~The operation of the sanitary sewer system shall remain in compliance with all sanitary sewer usage agreements between the county and other county and municipal governments and agencies.~~

~~(Ord. No. 17-05, Pt. I, 11-14-17)~~

~~Sec. 25-187178. - Submission of pre-petition request; submission of petition for public sewer extensions; creation of a special tax district.~~

- ~~(a) Prior to initiating a petition for sewer facilities, a request for a preliminary survey and feasibility study to determine if sewer can be provided to an area must be made to the department. This request must be made in writing by five (5) or more property owners within the same drainage basin and within a quarter mile diameter. If the department determines that sewer can be provided to the area, the department shall define the designated area for purposes of a petition. (ba) Whenever the owners, as listed on the latest ad valorem tax digest, of fifty-one (51) percent or more of the property within any designated area, as defined by the department, petition the county for sewer facilities, and this action requires the laying of a sanitary sewer line, the petition shall be filed with the department. Each property shall be identified by address and tax map parcel identification number, as used by the tax assessor and the tax commissioner. The petition shall be examined to see if the signatures are valid and if it sufficiently describes the services required. No more than ten (10) percent of the length of the new sewer should front undeveloped land, meaning property on which structures have not been built. Then, the county may initiate, per its adopted policies, a preliminary engineering survey to ensure that the proper designated area is described in the petition. Cost for construction and engineering services are also estimated at this time. Before final approval of any plans, the county must also ensure that sufficient stub-out connections are designated to adequately serve the territory affected. The petition is then advertised and a public hearing is held before the board of commissioners. If the governing authority, county, approves the petition, construction will be programmed and the designated area shall become a special tax district.~~
- ~~(b) All assessments against property and the owners thereof for the construction of sanitary sewer lines shall be liens upon the property by the county or, if designated by agreement, the City from the date of the adoption of the resolution authorizing the construction of the sewer lines.~~

~~(Ord. No. 17-05, Pt. I, 11-14-17)~~

~~Sec. 25-188179. - Public hearing; public notices.~~

- ~~(a) When a petition for the construction of a sanitary sewer line has been filed on behalf of a person or persons or when a recommendation for construction has been made by the head of any board or department of the county or the city, then a public hearing must will be held~~

before the county board of commissioners. The department shall notify the ~~governing authority~~county board of commissioners of the impending petition. The department shall then give notice to all persons concerned by publication of a notice ~~on the county's website and in the newspaper where sheriffs notices are published for~~pursuant to the county policy for placing notice of public hearings for a period of at least twenty (20) days prior to the hearing. The notice shall state the date and location of the proposed public hearing and shall give a general description of the proposed sanitary sewer construction ~~and include that if the petition is approved, the designated area shall become a special tax district.~~

- (b) All owners of property abutting the proposed sanitary sewer line who shall be assessed for the costs of the proposed sanitary sewer shall be notified in writing by the county at least twenty (20) days prior to the hearing. ~~The notice shall include a provision which notifies the owners that if the petition is approved, the designated area shall become a special tax district. The county shall comply with the intent of this section by addressing a~~All notices pursuant to this section shall be sent to the owners listed on the latest ad valorem tax digest of the county at the addresses indicated in such digest.

~~(Ord. No. 17-05, Pt. I, 11-14-17)~~

**Sec. 25-189180. - Notification to abutting property owners of public hearing.**

In addition to the published notice of a public hearing on a petition for sanitary sewer construction, all owners of property abutting the proposed sanitary sewer line who shall be assessed for the costs of ~~the proposed sanitary sewers~~such construction shall be notified in writing by the department at least twenty (20) days prior to the hearing. ~~The county shall comply with the intent of this section by addressing all notices to the owners listed on the latest ad valorem tax digest of the county at the addresses indicated.~~All notices pursuant to this section shall be addressed to the owners listed on the latest county ad valorem tax digest at the addresses indicated in such digest. The records of the county showing evidence of the mailing of the notices shall be prima facie evidence of receipt, and failure of the owner of any property concerned to receive a notice shall in no way affect the validity of the proceedings or the assessment. The purpose of this written notice is to furnish the owner with an additional statement of the public hearing.

~~(Ord. No. 17-05, Pt. I, 11-14-17)~~

**Sec. 25-190181. - Conduct of hearing.**

At the hearing provided for in this division, any person who will be assessed costs for the proposed sanitary sewer may appear before the ~~governing authority~~county board of commissioners, in accordance with the county's rules for same, ~~either in person or through an agent or attorney.~~ The decision of the ~~governing authority~~county with respect to the approval or rejection of the proposed sanitary sewer shall be final and conclusive. Any decision by the ~~governing authority~~county in favor of the construction shall ~~will~~ indicate a public need for the sanitary sewer, and this shall make all matters pertaining to the construction of the sanitary sewer and the assessment of costs against the abutting property owners legal and binding.



~~(Ord. No. 17-05, Pt. I, 11-14-17)~~

**Sec. 25-191182. - Procedure after plans and specifications received.**

~~When the county has approved the sanitary sewer, it shall procure the necessary right-of-way for construction of the sanitary sewer line whether by agreement or by condemnation. When the county has reviewed plans, specifications and necessary engineering data, the county will determine the names of all property owners affected, and the City will procure the necessary right-of-way and/or easement for construction of the sanitary sewer line as specified. Before final approval of any plans, the county will also ensure that sufficient stub-out connections are designated to adequately serve the territory affected.~~

~~(Ord. No. 17-05, Pt. I, 11-14-17)~~

**Sec. 25-192183. - Performance of construction.**

All sanitary sewers shall be constructed by the county or by such contractors retained by the county. All sanitary sewer construction performed by a private contractor shall be guaranteed against defects in contractor-supplied material and workmanship for a minimum period of one (1) year from the final inspection date. Construction shall be under the supervision of the county.

~~(Ord. No. 17-05, Pt. I, 11-14-17)~~

**Sec. 25-193184. - Budget, assessments and criteria, generally.**

- (a) Before construction of a sanitary sewer line begins, the department shall make up an assessment roll properly describing the sanitary sewer line and containing the names of all owners of abutting property. Each owner's property abutting the sanitary sewer shall be correctly described as it pertains to the construction. The cost of the sanitary sewer, including costs of easement acquisition, design, permitting by agencies other than DeKalb County, construction and related activities, shall then be shared by the county, if budgeted funds are available, and the various property owners. The property owners in the designated area shall collectively pay one-third ( 1/3 ) of the costs associated with the sanitary sewer line, but in no event shall the portion of costs assigned to each lot, whether improved or unimproved, or each condominium unit, as that term is defined by state law, exceed a seven thousand five hundred dollars (\$7,500.00) cap. The county shall pay two-thirds ( 2/3 ) of the costs associated with the sanitary sewer line, or a greater amount if necessary to enforce the seven thousand five hundred dollars (\$7,500.00) cap.
- (b) Each property owner in the designated area shall be responsible for and pay his/her pro rata share of the costs, which shall be divided equally among all property owners of abutting property within such designated area on the basis of the number of lots, whether improved

or unimproved, or on the basis of condominium units, as that term is defined by state law. The costs shall be amortized over a period of ten (10) years.

- (c) An annual budget shall be established for the county's expenditures related to sanitary sewer petitions. If the budget becomes exhausted before the end of the fiscal year, then no further petitions will be presented until the following year, unless the governing authority authorizes an increase in the budget.
- (d) In the event that petitions are presented which compete for the available remaining budget, the department will make recommendations based upon criteria including, but not limited to, the following: cost effectiveness (\$/lot), public health and water quality problems, in collaboration with the DeKalb County Department of Health.

~~(Ord. No. 17-05, Pt. I, 11-14-17)~~

**Sec. 25-194185. - Outfall sewers.**

- (a) In this section, "outfall sewer" means a section of sanitary sewer line, either in a public street or across private property, which normally does not provide direct service to the abutting property. Usually the outfall sewer is a section of a trunk sewer providing service to several street sanitary sewers serving properties and its cost is not included in the assessment rate. However, when an outfall does provide direct service to the abutting property, the cost of constructing the outfall shall be assessed against the abutting property owners.
- (b) Property owners desiring connection to outfall sewers may do so with concurrence of the director and shall pay an assessment based on the current year linear foot rate prior to their obtaining a sewer connection permit.
- (c) Exceptions to the provisions of this section may be granted by the department upon application.

~~(Ord. No. 17-05, Pt. I, 11-14-17)~~

**Sec. 25-195186. - Payment of assessments for cost of sanitary sewer in special tax district.**

Each year, the finance director shall be responsible for calculating each property owner's annual pro rata share of the costs, in accordance with the provisions of this division. The tax commissioner shall be responsible for collecting from the property owners payment of their pro rata share of one-third ( 1/3 ) of the costs associated with the sanitary sewer. The finance director and tax commissioner shall be notified by the executive assistant at such time as the construction is complete. Beginning January 1 of the year following the completion of construction and for each year thereafter, the tax statement issued to each such property owner shall include a separate line item tax showing each property owner's annual pro rata share of the costs until paid.

The annual pro rata share of the one-third ( 1/3 ) share of the costs, as limited by the seven thousand five hundred dollar (\$7,500.00) cap, shall become due and payable at the same time that county taxes are due and payable. If such cost remains unpaid, the tax commissioner shall have the authority to issue a writ of fieri facias or execution against the property served, which

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writ shall have the same lien dignity and priority as writs of fieri facias or executions issued for county taxes. Each assessment shall become a lien against the property served on January 1 of each year in the same manner that a lien attaches for county taxes, and such lien shall cover the property of the owner until such assessment is paid. Any unpaid amount shall accrue penalty, interest and charges in the same manner and at the same rate as other delinquent county taxes.

~~(Ord. No. 17-05, Pt. I, 11-14-17)~~

~~Sec. 25-196. - Dissolution of special tax district for sanitary sewer.~~

~~On December 31 of the tenth year following completion of construction of the sanitary sewer, the special tax district shall stand dissolved by operation of law. Dissolution of a special tax district in no way affects or invalidates enforcement and collection of any outstanding lien(s) for costs owed pursuant to this division.~~

~~(Ord. No. 17-05, Pt. I, 11-14-17)~~

~~Sec. 25-19787. - Service connections.~~

- ~~(a) After sanitary sewer lines have been constructed and tied into the county sewerage system, each abutting property owner who will be assessed a portion of the costs of construction through assessment may desire a service connection. Property owners are encouraged to connect to the public sewer once it becomes available; however, immediate connection is not mandated unless required by another provision of this Code, or unless public health, water quality or nuisance conditions as determined by either the department or the DeKalb County Department of Health warrant immediate connection. To make such a connection, the property owner shall hire, at the owner's expense, a plumber or contractor to lay pipe from the building drain to the stub-out provided. Before this service line can be connected to the sanitary sewer, the owner shall secure a permit from the county by paying a plumbing fee and a sewer tap fee. If the service line then passes the inspection criteria of the county, the owner may have it connected into the sewerage system.~~
- ~~(b) The costs associated with service connections are not included as costs for the construction of a sewer line and shall not be shared by the county as part of the seven thousand five hundred dollars (\$7,500.00) cap. However, nothing in this section shall prevent abutting property owners from seeking admission to any sewer or lateral grant program that is now in existence or that shall hereafter be established by the department or the governing authority.~~
- ~~(c) When a property owner desires connection to the sewerage system after construction of the sanitary sewer line, and no owner, or previous owner, of the property has paid his or her share of the costs of constructing the sanitary sewer line, or is making payments, the owner must pay a share of costs proportionate to the share paid by other owners in the designated area prior to obtaining a sewer connection permit, but in no event shall the portion of costs assigned to the owner exceed seven thousand five hundred dollars (\$7,500.00) per lot.~~

~~(Ord. No. 17-05, Pt. I, 11-14-17)~~

~~Secs. 25-198 – 25-210~~ 188 – 25-210. - Reserved.

**DIVISION 3. - BUILDING SEWERS AND CONNECTIONS**

**Sec. 25-211. - Applications for building sewer permits.**

Applications for building sewer permits shall be supplemented by plans, specifications and other information considered pertinent to the issuance of a permit. At the time the application is filed, a plumbing and inspection fee in an amount established by action of the ~~board of commissioners governing authority, a copy of which is on file in the office of the clerk of the board of commissioners,~~ shall be paid to the county sewer system provider. Installations and their respective tapping fees, as set by the ~~board governing authority,~~ shall be placed in one ~~(1)~~ of two ~~(2)~~ categories, residential or nonresidential. Proposed nonresidential discharges which meet the definition of significant industrial user shall also obtain a wastewater discharge permit as described in division 4 of this article. Nonresidential development has the option of requesting a recalculation of the tap fee based on actual water consumption after the first year of occupancy in a new building.

~~(Code 1976, § 6-2051)~~

**Sec. 25-212. - Separate building sewer for each building.**

A separate and independent building sewer shall be provided for every building. An exception is made where one ~~(1)~~ building stands at the rear of another on an interior lot and no private sanitary sewer is available or can be constructed to the rear building through an adjoining alley, courtyard or driveway; then, the building sewer from the front building may be extended to the rear building and the whole system considered one ~~(1)~~ building sewer.

~~(Code 1976, § 6-2052)~~

**Sec. 25-213. - Old building sewers in new buildings.**

Old building sewers may be used in connection with new buildings only when they are found, upon examination and test by the county sewer system provider, to meet all requirements of this article.

~~(Code 1976, § 6-2053)~~

**Sec. 25-214. - Location of building sewer and building drain.**

Unless otherwise authorized in writing by the department, the building sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which a building drain is too low to permit gravity flow to the public sanitary sewer, sewage carried by this drain shall be lifted by an approved sewage ejector to a height to permit gravity flow. All sewage ejector installations shall be approved by the county sewer system provider.

~~(Code 1976, § 6-2054)~~ **Sec. 25-215. - Owner to bear installation, connection costs.**

The owner shall bear all costs and expenses incident to the installation and connection of the building sewer. The owner shall compensate the ~~county~~city and/or the sewer system provider for any loss or damage that may have occurred to the public sanitary sewer as a result of the installation of the building sewer.

~~(Code 1976, § 6-2055)~~

**Sec. 25-216. - Conformity to county specifications.**

The size, slope, alignment and materials used in constructing a building sewer; the methods used in excavating, placing of the pipe, and backfilling of the trench; and the testing of the pipe shall all conform to the specifications, guidelines and other applicable rules of the ~~county~~city and the sewer system provider.

~~(Code 1976, § 6-2056)~~

**Sec. 25-217. - Connection of building sewer into public sewer.**

- (a) The connection of the building sewer into the public sanitary sewer shall conform to the requirements and regulations of the ~~county~~sewer system provider. All connections shall be made gastight and watertight. Any deviation from specified procedures must be approved in writing by the department before installation.
- (b) An applicant for a building sewer permit shall notify the department when the building sewer is ready for inspection and connection to the public sanitary sewer. Service shall not be instituted until the plumbing fee and sewer tap fee are paid and the connection is approved. Excavations necessary for the accomplishment of the connection shall be adequately guarded with barricades and lights, so as to protect the public from hazard. All excavations greater than five (5) feet deep shall be covered when excavation is not being conducted. Streets, sidewalks, parkways and other public property disturbed in the course of work shall be restored at the owner's expense, in compliance with ~~county~~city specifications.

~~(Code 1976, § 6-2057)~~

~~Cross-reference—Excavations, § 23-26 et seq.~~

**Sec. 25-218. - Connection of surface runoff and groundwater sources to public sewer.**

Connection, directly or indirectly, of roof downspouts, exterior foundation drains, area drains or other sources of surface runoff is not permitted to a building drain or building sewer connected to a public sanitary sewer. Existing connections of these items to a building sewer shall be disconnected when the building sewer is connected to the public sanitary sewer system.

~~(Code 1976, § 6-2058)~~

**Sec. 25-219. - Connecting to public sewer without paying fees or obtaining permit.**

It is unlawful to connect to the public sanitary sewer without payment of the prescribed fee and without a permit. If such a sewer connection is made, a current sewer tap fee, the fee at the time the connection was discovered, will be assessed; back sewer use charges will be made and interest at the rate otherwise specified in section 2-112 the Code of Ordinances or other applicable law or regulation will be charged.

~~(Code 1976, § 6-2059)~~

**Sec. 25-220. - Maintenance and repair responsibility for building sewer service connections to public sanitary sewer system.**

The property owner shall be responsible for maintenance and repair of building sewer service connections to the public sanitary sewer system on private property. ~~DeKalb County~~The sewer system provider shall be responsible for maintenance and repair of building sewer service connections within ~~county~~the city's street rights-of-way and sanitary sewer easements.

~~(Ord. No. 90-09, § 1, 5-30-90)~~

**Secs. 25-221—25-230. - Reserved.**

**DIVISION 4. - WASTEWATER DISCHARGE PERMITS**

**Sec. 25-231. - Wastewater discharge permit required.**

All significant industrial users connected to, proposing to connect to or otherwise contributing to the POTW shall obtain a wastewater discharge permit. Proposed new significant users shall apply at least ninety (90) days prior to connection to the sewer system and shall obtain such permit prior to contributing to the system.

- (1) The director may require other users to obtain wastewater discharge permits as necessary to carry out the purposes of this division.
- (2) The director may deny permission to discharge or condition discharges from new, increased or significantly changed contributions from any industrial user, significant or otherwise, located within the county or in outside jurisdictions discharging to the county's POTW.
- (3) Any violation of the terms and conditions of a wastewater discharge permit shall be deemed a violation of this division and subjects the wastewater discharge permittee to

the sanctions set out in this division. Obtaining a wastewater discharge permit does not relieve a permittee of its obligation to comply with all federal and state pretreatment standards or requirements, or with any other requirements of federal, state and local law.

~~(Code 1976, § 6-2061; Ord. No. 97-05, § 1, 3-11-97)~~

**Sec. 25-232. - Application.**

Users required to obtain a wastewater discharge permit shall complete and file with the department an application in the form prescribed and furnished by the county sewer system provider and accompanied by a fee in the amount established by action of the board of commissioners sewer system provider, a copy of which is on file in the office of the clerk of the board of commissioners.

~~(Code 1976, § 6-2062)~~

**Sec. 25-233. - Compliance with all applicable regulations.**

Wastewater discharge permits shall be subject to all provisions of this article and all other applicable regulations, user charges and fees established by the county city or the sewer system provider.

~~(Code 1976, § 6-2064; Ord. No. 97-05, § 1, 3-11-97)~~

**Sec. 25-234. - Permit contents.**

A wastewater discharge permit shall include such conditions as are deemed reasonably necessary by the director to prevent pass through or interference, protect the quality of the water body receiving the treatment plant's effluent, protect worker health and safety, facilitate sludge management and disposal and protect against damage to the POTW.

(1) Wastewater discharge permits must contain:

- a. A statement that indicates wastewater discharge permit duration, which in no event shall exceed three (3) years;
- b. A statement that the wastewater discharge permit is nontransferable, except as defined in section 25-235 of this division;
- c. Effluent limits based on applicable pretreatment standards;
- d. Self monitoring, sampling, reporting, notification and record-keeping requirements. These requirements shall include an identification of pollutants to be monitored, sampling location, sampling frequency and sample type based on federal, state or local law;

- e. A statement of applicable civil and criminal penalties for violation of pretreatment standards and requirements, and any applicable compliance schedule. Such schedule may not extend the time for compliance beyond that required by applicable federal, state or local law.
- (2) Wastewater discharge permits may contain, but need not be limited to, the following:
- a. Limits on the rate of discharge, time of discharge and/or requirements for flow regulation and equalization;
  - b. Requirements for the installation of pretreatment technology, pollution control or construction of appropriate containment devices designed to reduce, eliminate or prevent the introduction of pollutants into the treatment works;
  - c. Requirements for the development and implementation of accidental discharge/slug control plans or other special conditions including management practices necessary to adequately prevent accidental, unanticipated or nonroutine discharges;
  - d. Development and implementation of waste minimization plans to reduce the amount of pollutants discharged to the POTW;
  - e. Requirements for installation and maintenance of inspection and sampling facilities and equipment;
  - f. A statement that compliance with the wastewater discharge permit does not relieve the permittee of responsibility for compliance with all applicable federal and state pretreatment standards, including those which become effective during the term of the wastewater discharge permit; and
  - g. Other conditions as deemed appropriate by the director to ensure compliance with this ordinance and state and federal laws, rules and regulations.

~~(Ord. No. 97-05, § 1, 3-11-97)~~

**Sec. 25-235. - Expiration and renewal.**

~~(a)~~ Wastewater discharge permits shall be issued for a specified time period, not to exceed three (3) years. The user shall apply for permit reissuance a minimum of one hundred twenty (120) days prior to the expiration of the user's existing permit. If no new local, state or federal pretreatment requirements are impending on the user and the user has had no violation of the existing permit, the county sewer system provider shall renew the permit for a time period at least equal to the existing permit. All other expiring permits shall be reviewed and revised or renewed as determined by the director. Should a timely applied for permit expire before issuance of a new permit by the county sewer system provider, the existing permit shall continue in force until the new permit is issued by the county sewer system provider.

~~(a)~~(b) Discharge permits are issued to a specific user for a specific operation and normally are not transferable to any succeeding user or the current user for a new operation. Wastewater discharge permits may be transferred to a new owner or operator only if the permittee gives at least sixty (60) days advance notice to the director and the director approves the



wastewater discharge permit transfer. The notice to the director must include a written certification by the new owner or operator which:

- (1) States that the new owner and/or operator has no immediate intent to change the facility's operations and processes;
- (2) Identifies the specific date on which the transfer is to occur; and
- (3) Acknowledges full responsibility for complying with the existing wastewater discharge permit. Failure to provide advance notice of a transfer renders the wastewater discharge permit void as of the date of facility transfer.

~~(Code 1976, § 6-2066; Ord. No. 97-05, § 1, 3-11-97)~~

**Sec. 25-236. - Reporting requirements.**

(a) *Baseline monitoring reports.*

- (1) Within either one hundred eighty (180) days after the effective date of a categorical pretreatment standard, or the final administrative decision on a category determination under 40 CFR 403.6(a)(4), whichever is later, existing categorical users currently discharging to or scheduled to discharge to the POTW shall submit to the director a report which contains the information listed in paragraph b., below. At least ninety (90) days prior to commencement of their discharge, new sources, and sources that become categorical users subsequent to the promulgation of an applicable categorical standard, shall submit to the director a report which contains the information in paragraph b., below. A new source shall report the method of pretreatment it intends to use to meet applicable categorical standards. A new source shall also give estimates of its anticipated flow and quantity of pollutants to be discharged.
- (2) Users described above shall submit the following information:
  - a. *Identifying information.* The name and address of the facility including the name of the operator and owner.
  - b. *Environmental permits.* A list of any environmental control permits held by or for the facility.
  - c. *Description of operations.* Brief description of the nature, average rate of production and standard industrial classifications of the operation(s) carried out by the user. This description should include a schematic process diagram which indicates points of discharge to the POTW from the regulated process.
  - d. *Flow measurement.* The measured average daily and maximum daily flow, in gallons per day, to the POTW from regulated process streams and other streams.
  - e. *Measurement of pollutants.*
    1. The categorical pretreatment standards applicable to each regulated process.
    2. The results of sampling and analyses identifying the nature and concentration of regulated pollutants in the discharge from each regulated process. Instantaneous, daily maximum, and long-term average concentrations shall be reported. The sample shall be representative of daily operations and shall be

- analyzed in accordance with procedures set out in section 25-261 ~~of this division.~~
3. Sampling must be performed in accordance with procedures set out in section 25-261 ~~of this division.~~
- f. *Certification.* A statement, reviewed by the user's authorized representative and certified by a qualified professional, indicating whether pretreatment standards are being met on a consistent basis, and, if not, whether additional operation and maintenance (O&M) and/or additional pretreatment is required to meet the pretreatment standards and requirements.
- g. *Compliance schedule.* If additional pretreatment and/or O&M will be required to meet the pretreatment standards, the shortest schedule by which the user will provide such additional treatment. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard.
- h. *Signature and certification.* All baseline monitoring reports must be signed and certified in accordance with section 25-237 ~~of this division.~~
- (b) *Compliance schedule progress reports.* The following conditions shall apply to the compliance schedule required by section 25-236(1)(b)(7):
- (1) The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards;
  - (2) No increment referred to above shall exceed nine (9) months;
  - (3) The user shall submit a progress report to the director no later than fourteen (14) days following each date in the compliance schedule and the final date of compliance including, as a minimum, whether or not it complied with the increment of progress, the reason for any delay and, if appropriate, the steps being taken by the user to return to the established schedule.
  - (4) All compliance schedule progress reports must be signed and certified in accordance with section 25-237 ~~of this division;~~ and
  - (5) In no event shall more than nine (9) months elapse between such progress reports to the director.
- (c) *Report on compliance with categorical pretreatment standard deadline.* Within ninety (90) days following the date for final compliance with applicable categorical pretreatment standards, or in the case of a new source following commencement of the introduction of wastewater into the POTW, any user subject to such pretreatment standards and requirements shall submit to the director a report containing the following information: flow measurements; measurement of pollutants; and the certification statement, as described in section 25-236 ~~(b)(4-6),~~ the baseline monitoring report. All compliance reports must be signed and certified in accordance with section 25-237 ~~of this division.~~
- (d) *Discharge monitoring reports (self-monitoring reports).* All significant industrial users shall, at a frequency determined by the director and specified in the wastewater discharge permit but in no case less than twice per year, submit a report on the nature and concentration of pollutants in the discharge which are limited by pretreatment standards, and the measured daily flows for the reporting period. All discharge monitoring reports must be signed and certified in accordance with section 25-237 ~~of this division.~~

- (1) All wastewater samples must be representative of the user's discharge. Wastewater monitoring and flow measurement facilities shall be properly operated and maintained in good working order at all times. The failure of a user to keep its monitoring facility in good working order shall not be grounds for the user to claim that sample results are unrepresentative of its discharge.
- (2) If a user subject to the reporting requirement in this section monitors any pollutant more frequently than required by the director, using the procedures prescribed in this division, the results of the additional monitoring shall be included in the report.
- (e) *Notice of violation/repeat sampling and reporting.* If sampling performed by a user indicates a violation, the user must notify the director's designee as identified in the wastewater discharge permit within twenty-four (24) hours of becoming aware of the violation. The user shall also repeat the sampling and analyses and submit the results of the repeated testing to the director within thirty (30) days of becoming aware of the violation. The user is not required to resample if the department monitors at the user's facility at least once a month, or if the department samples between the user's initial sampling and when the user receives the results of that sampling.
- (f) *Reports of changed conditions.* Each user must notify the director of any planned significant changes to the user's operations or system which might alter the nature, quality, or volume of its wastewater at least sixty (60) days before the change.
  - (1) The director may require the user to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a wastewater discharge permit application under section 25-232 of this division.
  - (2) The director may issue a wastewater discharge permit under section 25-231 of this ordinance or modify an existing wastewater discharge permit under section 25-246 of this division in response to changed conditions or anticipated changed conditions.
  - (3) For purposes of this requirement, significant changes include, but are not limited to, flow increases of twenty (20) percent or greater, and the discharge of any previously unreported pollutants.

(Ord. No. 97-05, § 1, 3-11-97)

**Sec. 25-237. - Signatories and certification.**

All wastewater discharge permit applications submitted under section 25-232 and all user reports (~~submitted under section 25-236 of this division~~) must be signed by an authorized representative of the user and contain the following certification statement: "I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

(Ord. No. 97-05, § 1, 3-11-97)

**Sec. 25-238. - Record keeping.**

Users subject to the reporting requirements of this division shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by this division and any additional records of information obtained pursuant to monitoring activities undertaken by the user independent of such requirements. Records shall include the date, exact place, method, time of sampling and the name of the person(s) taking the samples; the dates the analyses were performed; who performed the analyses; the analytical techniques or methods used; and the results of such analyses. These records shall remain available for a period of at least three (3) years. This period shall be automatically extended for the duration of any litigation concerning the user, the City or ~~the city or the~~ county, or where the user has been specifically notified of a longer retention period by the director.

(Ord. No. 97-05, § 1, 3-11-97)

**Sec. 25-239. - Appeals.**

- (a) Any user may appeal an altered or new permit condition or alleged violation of a current permit condition to the department. Such appeal must be received within thirty (30) workdays. The department shall schedule an appeal review meeting within thirty (30) days to discuss the appealed condition of this division or wastewater discharge permit and corrective or remedial action to be taken.
- (b) If the user and the department can agree to appropriate corrective remedial or preventive measures, such measures and a reasonable compliance schedule shall be incorporated as a supplemental condition of the user's wastewater discharge permit. If an agreement is not reached through the conciliation process, the department shall refer the appeal to the ~~board of commissioners~~ governing authority and the ~~board of commissioners~~ governing authority shall review the appeal and adjudge the dispute. The ~~board of commissioners~~ sewer system provider shall then institute such actions as deemed advisable to ensure the user's compliance with the provisions of this division or other laws or regulations.

(Code 1976, § 6-2067; Ord. No. 97-05, § 1, 3-11-97)

**Sec. 25-240. - Public participation and access to records.**

- (a) The ~~county~~ city and the sewer system provider shall comply with the regulations for public participation as applicable under federal, state or local law.
- (b) Information and data on a user obtained from reports, surveys, wastewater discharge permit applications, wastewater discharge permits, monitoring programs and from the ~~county~~ sewer system provider's inspection and sampling activities shall be available to the public without restriction, unless the user specifically requests, and is able to demonstrate to the satisfaction

of the director, that the release of such information would divulge information, processes, or methods of production entitled to protection as trade secrets under applicable state law, or that such information is otherwise protected from disclosure under applicable federal or state law. Any such request must be asserted at the time of submission of the information or data. When requested and demonstrated by the user furnishing a report that such information should be held confidential, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public. It shall be made available immediately upon request to governmental agencies for uses related to the NPDES program or pretreatment program, and in enforcement proceedings involving persons furnishing the report. Wastewater constituents and characteristics and other "effluent data" as defined by 40 CFR 2.302 will not be recognized as confidential information and will be available to the public without restriction.

~~(Code 1976, § 6-2068; Ord. No. 97-05, § 1, 3-11-97)~~

**Sec. 25-241. - Federal limits supersede local limits.**

Upon the promulgation of a national categorical pretreatment standard for a particular industrial subcategory, the national standard, if more stringent than limitations imposed under this article for sources in that subcategory, shall immediately supersede the limitations imposed under this article. The county sewer system provider shall notify all affected significant industrial users of the applicable reporting requirements under 40 CFR 403.12.

~~(Code 1976, § 6-2069; Ord. No. 97-05, § 1, 3-11-97)~~

**Sec. 25-242. - Significant noncompliance.**

The director shall publish annually, in the largest daily newspaper published in the municipality where the POTW is located, a list of users which, during the previous twelve (12) months, were in significant noncompliance with applicable pretreatment standards and requirements. The term "significant noncompliance" shall mean:

- (1) Chronic violations of wastewater discharge limits, defined as those in which sixty-six (66) percent or more of wastewater measurements taken during a six-month period exceed the daily limit or average limit for the same pollutant parameter by any amount;
- (2) Technical review criteria (TRC) violations, defined as those in which thirty-three (33) percent or more of wastewater measurements taken for each pollutant parameter during a six-month period equals or exceeds the product of the daily limit or the average limit multiplied by the applicable criteria (1.4 for BOD; TSS; fats, oils and grease; and 1.2 for all other pollutants except pH);
- (3) Any other discharge violation that the director believes has caused, alone or in combination with other discharges, interference or pass through, including endangering the health of POTW personnel or the general public;

- (4) Any discharge of pollutants that has caused imminent endangerment to the public or to the environment, or has resulted in the director's exercise of his emergency authority to halt or prevent such a discharge;
- (5) Failure to meet, within ninety (90) days of the scheduled date, a compliance schedule milestone contained in the wastewater discharge permit;
- (6) Failure to provide, within thirty (30) days after the due date, any required reports, including baseline monitoring reports, reports on compliance with categorical pretreatment standard deadlines, periodic self-monitoring reports and reports on compliance with compliance schedules;
- (7) Failure to accurately report noncompliance; or
- (8) Any other violation(s) which the director determines will adversely affect the operation or implementation of the local pretreatment program.

(Ord. No. 97-05, § 1, 3-11-97)

**Sec. 25-243. - Penalties and enforcement.**

- (a) Upon determination that a violation of this ordinance has occurred, the director shall serve upon that discharger a written notice of violation. Within fifteen (15) days of receipt of this notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific actions, shall be submitted by the violator to the department. Submission of this plan in no way relieves the user of liability for any violations occurring before or after receipt of the notice of violation. Nothing in this section shall limit the authority of the director to take any action, including emergency actions or other enforcement action, without first issuing a notice of violation.
- (b) The director may order a discharger which has violated, or continues to violate, any provisions of this ordinance to appear before the director and show cause why the proposed enforcement action should not be taken. The notice of the meeting shall be served by registered or certified mail, or by personal service on the user or the authorized representative of the user. Such notice may be served on any authorized representative of the discharger. A show cause hearing shall not be a bar against, or a prerequisite for, taking any other action against the discharger.
- (c) When the director finds that a discharger has violated, or continues to violate, any provisions of this division or that the discharger's past violations are likely to recur, the director may issue an order to the discharger directing it to cease and desist all such violations and directing the discharger to:
  - (1) Immediately comply with all requirements; and,
  - (2) Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation and to prevent recurrence of the violation.
  - (3) Each day of violation of a cease and desist order, after notice thereof, shall constitute a violation of this division, and shall constitute a separate violation of this division,

subject to the maximum fine or imprisonment, or both, set forth in section 1-1011 of this Code.

- (d) Violation of the provisions of this ordinance constitutes an infraction subject to a penalty not to exceed one thousand dollars (\$1,000.00) per day per violation, imprisonment in ~~the county jail~~ for a term not exceeding thirty (30) days, or by labor on the work gang for sixty (60) days for any single offense, in accordance with section 1-1011 of this Code. ~~DeKalb County~~ The City or its authorized agent may institute appropriate action or proceedings at law or equity for the enforcement of this division or to correct violations of this division. Any court of competent jurisdiction may have the right to issue restraining orders, temporary or permanent injunctions and other appropriate forms of remedy or relief. Each day of noncompliance is considered a separate offense. Nothing herein contained shall prevent the ~~county~~ City or its authorized agent from taking such other lawful action as is necessary to prevent or remedy any violation, including application for injunctive relief.
- (e) When the director finds that a discharger has violated, or continues to violate, any provision of this ordinance, the director may petition the courts ~~through the county attorney~~ for the issuance of a temporary or permanent injunction, as appropriate, which restrains or compels the requirements imposed by this ordinance on activities of the user. The director may also seek such other action as appropriate for legal and/or equitable relief, including a requirement for the discharger to conduct environmental remediation. A petition for injunctive relief shall not be a bar against, or prerequisite for, taking other action against a discharger.
- (f) The director may recover reasonable attorneys' fees, court costs and other expenses associated with enforcement activities, including sampling and monitoring expenses, and the cost of any actual damages incurred ~~by the county~~, including, but not limited to, containment, cleanup, injury, death and other.

~~(Ord. No. 97-05, § 1, 3-11-97)~~

**Sec. 25-244. - Permit revocation.**

The director may revoke a wastewater discharge permit for good cause, including, but not limited to, the following reasons:

- (1) Failure to notify the director or his designee of significant changes to the wastewater prior to the changed discharge;
- (2) Failure to provide prior notification to the director or his designee of changed conditions pursuant to this chapter;
- (3) Misrepresentation or failure to fully disclose all relevant facts in the wastewater discharge permit application or any other required reporting;
- (4) Falsifying self-monitoring reports or other required reporting;
- (5) Tampering with monitoring equipment;

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- (6) Refusing to allow the director or his designee timely access to the facility premises and records;
- (7) Failure to meet effluent limitations;
- (8) Failure to pay fines;
- (9) Failure to pay sewer charges;
- (10) Failure to meet compliance schedules;
- (11) Failure to complete a wastewater survey or the wastewater discharge permit application;
- (12) Failure to provide advance notice of the transfer of business ownership of a permitted facility;
- (13) Change of any condition that requires either temporary or permanent reduction or elimination of the permitted discharge; or
- (14) Violation of any pretreatment standard or requirement, or any terms of the wastewater discharge permit or this chapter.

Wastewater discharge permits shall be voidable upon cessation of operations or transfer of business ownership. All wastewater discharge permits issued to a particular user are void upon the issuance of a new wastewater discharge permit to that user.

~~(Ord. No. 97-05, § 1, 3-11-97)~~

**Sec. 25-245. - Permit modification.**

The director may modify any permit in whole or in part during its term for cause including, but not limited to, the following:

- (1) Violating any pretreatment standard or requirement, or any terms of the wastewater discharge permit or ~~this ordinance~~ any provision of this chapter;
- (2) Engaging in any act that would constitute basis for revocation of the permit;
- (3) For purpose of incorporating any new or revised federal, state or local pretreatment standard or requirements;
- (4) For purpose of addressing significant alterations or additions to the user's operation, processes or wastewater volume or character since the time of wastewater discharge permit issuance;
- (5) Information indicating that the permitted discharge poses a threat to the POTW, personnel, or the receiving waters;
- (6) Misrepresentation or failure to fully disclose all relevant facts in the wastewater discharge permit application or in any required reporting;
- (7) Revision of or a grant of variance from categorical pretreatment standards pursuant to 40 CFR 403.13;



- (8) To correct clerical or other errors in the wastewater discharge permit; or
- (9) Changing any condition that requires either a temporary or permanent reduction or elimination of the permitted discharge.

(Ord. No. 97-05, § 1, 3-11-97)

**Sec. 25-246. - Affirmative defenses to discharge violations.**

(a) *Upset.*

- (1) For the purposes of this section, "upset" means an exceptional incident in which there is unintentional and temporary noncompliance with categorical pretreatment standards because of factors beyond the reasonable control of the user. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.
- (2) An upset shall constitute an affirmative defense to an action brought for noncompliance with categorical pretreatment standards if the requirements of ~~section~~subsection 25-246(a)(3) of this section, below, are met.
- (3) A user who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:
  - a. An upset occurred and the user can identify the cause(s) of the upset;
  - b. The facility was at the time being operated in a prudent and workman-like manner and in compliance with applicable operation and maintenance procedures; and
  - c. The user has submitted the following information to the director within twenty-four (24) hours of becoming aware of the upset (if this information is provided orally, a written submission must be provided within five (5) days):
    1. A description of the indirect discharge and cause of noncompliance;
    2. The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue; and
    3. Steps being taken and/or planned to reduce, eliminate, and prevent recurrence of the noncompliance.
  - d. In any enforcement proceeding, the user seeking to establish the occurrence of an upset shall have the burden of proof.
  - e. Users will have the opportunity for a judicial determination on any claim of upset only in an enforcement action brought for noncompliance with categorical pretreatment standards.

- f. Users shall control production of all discharges to the extent necessary to maintain compliance with categorical pretreatment standards upon reduction, loss, or failure of its treatment facility until the facility is restored or an alternative method of treatment provided. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost, or fails.
- (b) *Prohibited discharge standards.* A user shall have an affirmative defense to an enforcement action brought against it for noncompliance with the general prohibitions in section 25-253(1) ~~of this division~~ or the specific prohibitions in section 25-253(2)(c) through (g) ~~of this division~~ if it can prove that it did not know, or have reason to know, that its discharge, alone or in conjunction with discharges from other sources, would cause pass through or interference and that either:
- (1) A local limit exists for each pollutant discharged and the user was in compliance with each limit directly prior to, and during, the pass through or interference; or
  - (2) No local limit exists, but the discharge did not change substantially in nature or constituents from the user's prior discharge when the county was regularly in compliance with its NPDES permits, and in the case of interference, was in compliance with applicable sludge use or disposal requirements.
- (c) *Bypass.*
- (1) For the purposes of this section,
    - a. "Bypass" means the intentional diversion of wastestreams from any portion of a user's treatment facility.
    - b. "Severe property damage" means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss caused by delays in production.
  - (2) A user may allow any bypass to occur which does not cause pretreatment standards or requirements to be violated, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provision of ~~paragraphs~~subsections (c)(3) and (4) of this section.
  - (3) Prior notice.
    - a. If a user knows in advance of the need for a bypass, it shall submit prior notice to the director, at least ten (10) days before the date of the bypass, if possible.
    - b. A user shall submit oral notice to the director of an unanticipated bypass that exceeds applicable pretreatment standards within twenty-four (24) hours from the time it becomes aware of the bypass. A written submission shall also be provided within five (5) days of the time the user becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact dates and times, and, if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the bypass. The director may

waive the written report on a case-by-case basis if the oral report has been received within twenty-four (24) hours.

- (4) a. Bypass is prohibited, and the director may take an enforcement action against a user for a bypass, unless:
1. Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
  2. There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and
  3. The user submitted notices as required under ~~paragraph~~subsection (c)(3) of this section.
- b. The director may approve an anticipated bypass, after considering its adverse effects, if the director determines that it will meet the three conditions listed in ~~paragraph (d)1-~~subsection (c)(4)a of this section.

~~(Ord. No. 97-05, § 1, 3-11-97)~~

~~Secs. 25-247—25-250.~~ - Reserved.

#### **DIVISION 5. - DISCHARGE REGULATIONS**

##### **Sec. 25-251. - Discharge of prohibited waters.**

Discharge to a public sanitary sewer of stormwater, surface runoff or groundwater is prohibited. These waters shall be discharged to sewers specifically designated as storm sewers, combined sewers, or to an outlet approved by the ~~county~~city.

~~(Code 1976, § 6-2071)~~

##### **Sec. 25-252. - Unauthorized tampering or use of sewers, appurtenances.**

No unauthorized person shall uncover, make any connections with or open, use, alter or disturb any public sanitary sewer or appurtenance without first obtaining a written permit from the department.

~~(Code 1976, § 6-2072)~~

##### **Sec. 25-253. - Prohibited substances, wastes or materials.**

- (a) *General prohibitions.* No user shall introduce or cause to be introduced into the POTW any pollutant or wastewater which causes pass through or interference. These general prohibitions apply to all users of the POTW whether or not they are subject to categorical pretreatment standards or any other federal, state, or local pretreatment standards or requirements.
- (b) *Specific prohibitions.* No user shall introduce or cause to be introduced into the POTW the following pollutants, substances or wastewater:
- (1) Gasoline, benzene, naphtha, fuel oil or other flammable or explosive liquids, solids or gases, or any other pollutants which create a fire or explosive hazard in the POTW including, but not limited to, wastestreams with a closed-up flash point of less than one hundred forty (140) degrees F (60 degrees C) using the test methods specified in 40 CFR 261.21.
  - (2) Wastewater having a pH lower than 5.0 or higher than 11.5 or otherwise causing corrosive structural damage to sewerage or harm to personnel.
  - (3) Pollutants which result in the presence of toxic gases, vapors, or fumes within the POTW in a quantity that may cause acute worker health and safety problems, or any water wastes containing toxic or poisonous solids, liquids or gases in a quantity sufficient to interfere with any sewerage or sewage treatment process, constitute a hazard to humans or animals or create a public nuisance, whether these wastes cause problems independently or via action with other substances.
  - (4) Solids or viscous liquids in quantities, types or sizes which will cause either flow obstruction in the sewer system or interference with the operation of the POTW (size may not be greater than one-half (½) inch in any dimension).
  - (5) Pollutants, including oxygen-demanding pollutants (BOD, etc.), released in a discharge at a flow rate and/or pollutant concentration which, either singly or by interaction with other pollutants, will cause interference with the POTW.
  - (6) Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin, in amounts that will cause interference or pass through;and.
  - (7) Wastes or pollutants which have been classified as hazardous waste or hazardous materials in accordance with 40 CFR Part 261.

(Code 1976, § 6-2073; Ord. No. 97-05, § 1, 3-11-97)

**Sec. 25-254. - Limits set on certain substances, materials and wastes.**

- (a) Discharge of any of the following water substances, wastes, or materials into a public sanitary sewer in excess of the stated limits and/or conditions is prohibited:
- (1) Liquid or water vapor having a temperature greater than one hundred fifty (150) degrees Fahrenheit, or which will inhibit biological activity in the POTW resulting in interference, but in no case wastewater which causes the temperature at the introduction into the treatment plant to exceed one hundred four (104) degrees Celsius.
  - (2) Water or waste containing fats, wax, grease or oils of a petroleum or mineral base, in a concentration greater than one hundred (100) milligrams per liter (mg/l).

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- (3) Substances which become solids or very viscous liquids at temperatures greater than thirty-two (32) degrees Fahrenheit.
- (4) Garbage that has been improperly shredded (any dimension greater than one-half (1/2) inch).
- (5) Water or waste containing the contaminants listed at a concentration greater than the limits set. This restriction includes, but is not limited to, discharges by any user of the collection and treatment system such that specific pollutants discharged to the county sanitary sewer system do not exceed concentrations specified below... The concentration limits on discharges by any user, listed below, may be used as a guide in design and plant control, but may be alerted by the boardgoverning authority in the event of a discharge causing upset, interference or pass through at the POTW or having a deleterious effect upon any other aspect of public welfare, either alone or in combination with other discharges:

I. \_\_\_\_\_ LOCAL \_\_\_\_\_ DISCHARGE \_\_\_\_\_ LIMITS \_\_\_\_\_ FOR  
 ALL \_\_\_\_\_ DEKALB \_\_\_\_\_ COUNTY  
 INDUSTRIAL \_\_\_\_\_ USERS  
 MAXIMUM \_\_\_\_\_ DAILY  
 CONCENTRATION

(As measured in discharges from manufacturing processes only, excluding domestic wastes or unpolluted discharges)

- a. Local discharge limits for all industrial users maximum daily concentration (as measured in discharges from manufacturing processes only, excluding domestic waters or unpolluted discharges):

Contaminant	Industrial User Discharge Limit (mg/L)	Sample Type
Arsenic	0.12	24-hr. composite
Cadmium	0.01	24-hr. composite
Chromium	2.3	24-hr. composite
Copper	2.6	24-hr. composite
Cyanide, Total	0.08	Grab
Lead	0.12	24-hr. composite

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Mercury	0.002	24-hr. composite
Molybdenum	1.7	24-hr. composite
Nickel	1.8	24-hr. composite
Phenol	3.6	Grab
Selenium	0.5	24-hr. composite
Silver	1.7	24-hr. composite
Zinc	2.5	24-hr. composite

H. LOCAL DISCHARGE LIMITS FOR  
 DEKALB COUNTY  
 INDUSTRIAL USERS  
 DISCHARGING  
 TO THE CITY OF ATLANTA'S  
 RM CLAYTON WPCP  
 MAXIMUM DAILY  
 CONCENTRATION

(As measured in discharges from manufacturing processes only, excluding domestic waste or unpolluted discharges)

- b. Local discharge limits for industrial users discharging to the City of Atlanta's RM Clayton WPCP maximum daily concentration (as measured in discharges from manufacturing processes only, excluding domestic waste or unpolluted discharges):

Contaminant	Industrial User Discharge Limit (mg/L)	Sample Type
Phosphorus, total	10 mg/L	24-hr. composite
Phosphorus, total, from food processing industry only	25 mg/L	24-hr. composite

- (6) Water or wastes containing taste- or odor-producing contaminants in such quantities that, after treatment of sewage, these contaminants impart their tastes or odors to receiving waters.
  - (7) Water or wastes colored by dye or other solutions to such a degree that the color is not removed by treatment.
  - (8) Wastes containing substances emitting radiation greater than one thousand (1,000) picocuries per liter (pCi/l) for gross beta.
  - (9) Any other contaminant which the director deems harmful to the operation or efficiency of sewage treatment plants, the utilization or disposal of sludges, or to the health and welfare of the residents of the county.
  - (10) Waters or wastes containing any compound found to be toxic, in concentrations exceeding such acceptable limits as have been or shall be defined by the Environmental Protection Agency. This limitation includes compounds defined by the Environmental Protection Agency as priority pollutants pursuant to 40 CFR 403.
- (b) Ground paper products shall be prohibited from being discharged into the public sewer system.
- (c) All industrial users shall be required to meet pretreatment standards as set forth in Title 40 Part 403 of the Code of Federal Regulations, entitled "General Pretreatment Regulations for Existing and New Sources of Pollution". The categorical pretreatment standards found at 40 CFR Chapter I, Subchapter N, Parts 405—471 are hereby incorporated.
- (d) The county/city or the sewer system provider may establish by ordinance, or the director may establish in wastewater discharge permits, more stringent standards for requirements on discharges to the POTW.

~~(Code 1976, § 6-2074; Ord. No. 97-05, § 1, 3-11-97; Ord. No. 00-76, 7-25-00)~~

**Sec. 25-255. - Discharges which affect effluent quality from sewage treatment plants.**

Discharges of materials or substances which would cause interference, upset and/or pass-through in the POTW, whether alone or in combination with other substances and discharges, are prohibited. Included without limitation in this category are:

- (1) Slug concentrations of inert suspended solids (such as lime slurries).
- (2) Slug concentrations of inert dissolved solids (such as sodium chloride).
- (3) Slug concentrations of colored wastes (such as dyes and tanning solutions).
- (4) Slug concentrations of materials high in BOD or COD.
- (5) Slug concentrations of ammonia or organic nitrogen compounds.
- (6) Slug concentrations of phosphorus compounds.
- (7) Other wastes not amenable to treatment.

~~(Code 1976, § 6-2075; Ord. No. 97-05, § 1, 3-11-97)~~

**Sec. 25-256. - Accidental discharge/slug control plans.**

- (a) At least once every two (2) years, the director or his designee shall evaluate whether each significant user needs an accidental discharge/slug control plan. The director or his designee may require any user to develop, submit for approval and implement such a plan. Alternatively, the director or his designee may develop such a plan for any user. An accidental discharge/slug control plan shall address, at a minimum, the following:
- (1) Description of discharge practices, including non-routine batch discharges;
  - (2) Description of stored chemicals;
  - (3) Procedures for immediately notifying the director or his designee of any accidental or slug discharge, as required by section 25-262 ~~of this division~~;
  - (4) Procedures to prevent adverse impact from accidental or slug discharge. Such procedures include, but are not limited to, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants, including solvents, and/or measures and equipment for emergency response.
- (b) Pollutants, substances or wastewater prohibited by this division shall not be processed or stored in such a manner that they could be discharged to the POTW. Pollutants, raw materials, products, processed materials or waste materials shall not be stored in such a manner that they could be discharged to the storm drain or cause a contaminated discharge to the municipal separate storm sewer system.

~~(Ord. No. 97-05, § 1, 3-11-97)~~

**Sec. 25-257. - Separators and interceptors.**

Grease, oil and sand separators shall be provided when wastes containing more than one hundred (100) mg/l of fat, oil, grease or sand are discharged. Separators shall also be provided for any other substance in the wastes which becomes viscous or solidifies at a temperature above thirty-two (32) degrees Fahrenheit. All interceptors or separators shall be approved in writing by the county and shall be located for easy inspection. All expenses of installation and operation shall be borne by the owner. Interceptors and separators shall not be required for private living quarters.

~~(Code 1976, § 6-2076; Ord. No. 97-05, § 1, 3-11-97)~~

**Sec. 25-258. - Industrial discharges and surcharges.**

- (a) Industrial contributors to the public sanitary sewer system shall be required to pay a sewer rate surcharge based upon the concentration of total suspended solids (TSS), five-day BOD, ammonia and/or total phosphorus in their effluents. Industrial dischargers whose wastes contain greater than two hundred fifty (250) mg/l of either five-day BOD and/or total



suspended solids, thirty (30) mg/l ammonia, or ten (10) mg/l total phosphorus shall pay the surcharge in an amount set by the ~~board~~sewer system provider.

- (b) If values for any constituent exceed two (2) times the minimum surcharge concentration (i.e., five hundred (500) mg/l TSS) then the director may, if determined that these wastes adversely affect the POTW, require the industrial user to install pretreatment before discharging wastes to the public sanitary sewer system. This pretreatment must reduce the concentration of the wastes by treatment/removal of the excess constituent to the point where it no longer harms the POTW, and the values for all constituents are less than two (2) times the minimum surcharge concentration.
- (c) Periodic determination of the values for constituents subject to surcharge shall be made on composite samples of industrial effluents by personnel of the ~~county~~sewer system provider.

~~(Code 1976, § 6-2077; Ord. No. 97-05, § 1, 3-11-97)~~

**Sec. 25-259. - Discharges requiring pretreatment.**

The ~~department~~sewer system provider may require pretreatment of wastewater to an acceptable condition before discharge to the public sanitary sewer system when wastewaters contain the substances or possess the characteristics of prohibited or limited discharges. Pretreatment may also be required if these wastewaters cause upset, interference or pass through at the POTW or have a deleterious effect upon any other aspect of public welfare, either alone or in combination with other discharges. In addition to lowering the concentrations of substances to an acceptable level through pretreatment or altering the characteristics of a wastewater, the ~~department~~sewer system provider may require additional controls before discharge to the public sanitary sewer system. In particular, quantities or rates of discharge shall be altered so that the discharge becomes more compatible with the sewer system. Expenses incurred in the installation and operation of these controls shall be borne by the industrial user.

~~(Code 1976, § 6-2078; Ord. No. 97-05, § 1, 3-11-97)~~

**Sec. 25-260. - Dilution.**

No user shall ever increase the use of process water, or in any way attempt to dilute a discharge, as a partial or complete substitute for adequate treatment to achieve compliance with a discharge limitation unless expressly authorized by an applicable pretreatment standard or requirement. The director may impose mass limitations on users who are using dilution to meet applicable pretreatment standards or requirements, or in other cases when the imposition of mass limitations is appropriate.

~~(Ord. No. 97-05, § 1, 3-11-97)~~

**Sec. 25-261. - Measurements, tests and analyses, and sample collection.**

- (a) Any measurements, tests, analyses, sample types, sample containers and/or holding times to which reference is made in this chapter shall be determined in accordance with procedures and specifications as set forth in Title 40 Part 136 of the Code of Federal Regulations, unless otherwise specified in an applicable categorical pretreatment standard. If 40 CFR Part 136 does not contain sampling or analytical techniques for the pollutant in question, sampling and analyses must be performed in accordance with procedures approved by EPA.
- (b) Analyses shall be determined at the control manhole, or upon a suitable sample taken at the control manhole. If no control manhole is available on the building sewer, the control manhole shall be considered the nearest downstream manhole to which the building sewer is directly connected. When the director deems it necessary, the owner of any property served by a building sewer carrying industrial wastes shall install a suitable control manhole on the building sewer to facilitate observation and sampling of wastes. This manhole, when required, shall be accessible, safely located, and constructed at the owner's expense in accordance with ~~county~~the relevant specifications of the city or of the sewer system provider.
- (c) Except as indicated in ~~section 25-261(d), below~~subsection (d) of this section, the user must collect wastewater samples using flow proportional composite sampling techniques. In the event flow proportional sampling is infeasible, the director may authorize the use of time proportional sampling or a minimum of four (4) grab samples where the user demonstrates that this will provide a representative sample of the effluent being discharged. In addition, grab samples may be required to show compliance with instantaneous discharge limits.
- (d) Samples for oil and grease, temperature, Ph, cyanide, phenols, sulfides, and volatile organic compounds must be obtained using grab collection techniques.

~~(Code 1976, § 6-2079; Ord. No. 97-05, § 1, 3-11-97)~~

**Sec. 25-262. - Accidental spills or drains.**

- (a) In the case of accidental spills, loss to the drains of any deleterious material or substances, discharges of a non-routine nature, non-customary batch discharges or slug loads, the user shall immediately telephone and notify the ~~department~~sewer system provider of the incident. This notification shall include the time of occurrence, location of discharge, type of waste, concentration and volume if known and corrective actions taken by the user. The user shall take all possible actions to prevent a spill, and should a spill occur, shall take immediate steps to ensure no recurrence of the incident. Industrial users which store or otherwise handle toxic, hazardous or flammable materials must have an accidental discharge/slug control plan in place to prevent the discharge, accidental or otherwise, of said materials to the sewer system.
- (b) Within five (5) days following such discharge, the user shall submit a detailed written report, unless waived by the director, describing the cause(s) of the discharge and the measures to be taken by the user to prevent similar occurrences in the future. Such notification shall not relieve the user of any expense, loss, damage or other liability which may be incurred as a result of damage to the POTW, natural resources or any other damage

to person or property; nor shall such notification relieve the user of any fines, penalties or other liability which may be imposed pursuant to this division.

- (c) A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees whom to call in the event of a discharge described in ~~paragraph (a), above~~subsection (a) of this section. Employers shall ensure that all employees who may cause such a discharge to occur are advised of the emergency notification procedure.  
(Ord. No. 97-05, § 1, 3-11-97)

**Sec. 25-263. - Discharge of trucked or hauled wastes.**

- (a) Discharge to any public sanitary sewer, appurtenance, or treatment facility of pumped, trucked or hauled wastes from commercial or industrial sources is prohibited. This ban specifically includes the disposal of greases and other grease trap-related wastes from food establishments.
- (b) Discharge of domestic septage is allowable only at the county's authorized septic tank disposal site, located at the Snapfinger Creek Water Pollution Control Plant, in accordance with the following requirements:
- (1) Septic tank pumping companies must register with the DeKalb County Health Department, Division of Environmental Health; have their trucks inspected by that agency; and be issued a permit to Operate.
  - (2) Discharge fees shall be payable by coupons, obtained at the DeKalb County Division of Revenue and License Administration, and presented to the operator at the disposal site. Fees shall be as established by action of the DeKalb County ~~b~~Board of ~~e~~Commissioners.
  - (3) A manifest form must be completed on every septic tank pumped. Copies of the manifests for the septage to be discharged must be presented to the operator at the disposal site. The operator shall have the authority to deny approval for discharge to any load(s) not accompanied by manifests, due to discrepancies with the manifests, or other apparent problems with truck contents.
  - (4) Domestic septage shall be defined as the contents from septic tanks located at single-family residences, DeKalb County school facilities, or the contents of portable toilets.
  - (5) Repeat and/or major violations of these regulations may result in the hauling company being barred from the treatment facility and denied access to disposal in the county's system, in addition to the other fines and penalties cited in this section.

(Ord. No. 92-30, 10-13-92; Ord. No. 97-05, § 1, 3-11-97)

**Sec. 25-264. - Emergency suspensions.**

The director may immediately suspend a user's discharge, after informal notice to the user, whenever such suspension is necessary to stop an actual or threatened discharge which reasonably appears to present or cause an imminent or substantial endangerment to the health or welfare of persons. The director may also immediately suspend the user's discharge, after notice and opportunity to respond, that threatens to interfere with the operation of the POTW, or which presents or may present an endangerment to the environment.

- (1) Any user notified of a suspension of its discharge shall immediately stop or eliminate its contribution. In the event of a user's failure to immediately comply voluntarily with the suspension the director may take such steps as deemed necessary, including immediate severance of the order, sewer connection, and/or termination of water supply, to prevent or minimize damage to the POTW, its receiving stream or endangerment to any individuals. The director may allow the user to recommence its discharge when the user has demonstrated to the satisfaction of the director that the period of endangerment has passed.
- (2) A user that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement to the director, describing the causes of the harmful contribution and the measures taken to prevent any future occurrence.

Nothing in this section shall be interpreted as requiring a hearing prior to any emergency suspension under this section.

~~(Ord. No. 97-05, § 1, 3-11-97)~~

~~Sec. 25-265. - Title.~~

~~Section 25-265 through section 25-265.21 shall be known as the Fats, Oils, and Greases Regulations of DeKalb County, Georgia.~~

~~(Ord. No. 07-03, Pt. I, 3-27-07)~~

~~Secs. 25-265 - 25-300. - Reserved.~~

## DIVISION 6. - FATS, OILS AND GREASES

### Sec. 25-265.1301. - Definitions.

~~For the purposes of this section, certain terms and words are hereby defined. The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning. Where words are not herein defined, but are defined in section 1-2, those words shall have the meaning as defined therein. Unless otherwise defined herein, words related to water quality shall be as defined in the latest edition of Standard Methods for Examination of Water and Wastewater, published by the American Public Health Association, the American Water Works Association, and the Water Environment Federation. Unless otherwise defined herein, words related to construction shall be as defined in this Code and in the latest adopted applicable editions of the Georgia codes applicable to building construction adopted pursuant to state law. 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:~~

- (1) *Architectural or historical restrictions* means a building or structure in DeKalb County ~~the city~~ that is one hundred (100) years or older and has special historical or esthetic interest or value.

- (2) *Backflow* means a reversal of normal flow in a system caused by a negative pressure (vacuum or partial vacuum) in the supply piping or other condition that reverses the normal direction of flow.
- (3) *Baffle* means a retention wall three-quarters (¾) the length of the chamber nearer to the outlet.
- (4) *Best management practices* means a schedule of activities, a prohibition of practices, maintenance procedures, and other management practices to prevent or reduce the introduction of fats, oils, and greases into the sewer system. These practices may vary by site, but produce the same reductions in fats, oils, and greases in the sewer system.
- (5) *Change in operations* means any change in the ownership, food types, or operational procedures of a food service establishment.
- (6) *Compliance inspector* means a person authorized by ~~DeKalb County~~ the city to inspect any existing or proposed wastewater generation, conveyance, processing, and/or disposal facilities.
- (7) *Director* means the director or ~~designee~~ of the ~~DeKalb County Department of Watershed Management~~ sewer system provider or his designee.
- (8) *Extreme economic hardship* means a cost to comply with the requirements of these regulations that exceeds fifty thousand dollars (\$50,000.00).
- (9) *Fats, oils, and greases (FOG)* means any substance such as a vegetable or animal product that is used in, or is a byproduct of, the food preparation process, that turns or may turn viscous or solidifies or may solidify with a change in temperature or other conditions.
- (10) *Fixtures* means a pot sink, pre-rinse sink, vegetable sink, meat sink, mop sink, soup kettles, work stations, floor drains, automatic hood wash units, garbage disposals, trash compactors, dishwashers, and any other similarly functioning plumbing fixtures.
- (11) *Flow* means volume of wastewater moving in a certain direction.
- (12) *Flow control device* means a mechanism installed to control flow of hydraulic levels of FOG into an interceptor.
- (13) *FOG* means fats, oils, and greases.
- (14) *FOG control program* means to reduce and/or control the discharge of fats, oils, and grease into the sewer system by educating and regulating food service establishments located in ~~DeKalb County~~ the city or establishments located outside ~~DeKalb County~~ the city but which discharge FOG.
- (15) *FOG control program manager* means the individual designated by ~~DeKalb County~~ the city to administer the FOG control program.
- (16) *FOG interceptor* means a multicompartiment device that is constructed in different sizes and is generally required to be located underground between a food service establishment and the connection to the sewer system. These devices primarily use gravity to separate FOG from the wastewater as it moves from one compartment to the next. These devices must be cleaned, maintained, and have the FOG removed and disposed of in a proper manner on regular intervals to be effective.
- (17) *FOG manifest* means a document that the state-permitted transporter must provide to the FOG generator as proof of services rendered.

- (18) *FOG wastewater discharge permit* means a permit issued by DeKalb County authorizing the food service establishment or generator to discharge wastewater into DeKalb County's facilities or into the sewer system.
- (19) *Food Service Establishment (FSE)* means any person who prepares and/or packages food or beverage for sale or consumption, on or off site, with the exception of private residences so long as the private residence is not used to prepare or package food or beverage for sale. Food service establishments include, but are not limited to, food courts; food manufacturers; food packagers; restaurants; catering services; bars/taverns; cafeterias; soda fountains; institutions, both public and private; mobile food vehicles (coach); wing trailers; diners; grocery stores; bakeries; coffee shops; ice cream shops; lounges; hospitals; hotels; nursing homes; churches; schools; daycare center; and all other food service establishments not listed above, either fixed or mobile, as are or may hereafter be recognized by the health department and/or the state department of agriculture.
- (20) *Fresh air system/fixtures* means a system that provides free circulation of air, which will prevent contamination from back flow or back siphonage, e.g. compartment sinks, dishwashers, floor drains, meat sinks, vegetable sinks, work stations, and mop sinks.
- (21) *Generator* means any person including those outside the jurisdictional limits of ~~DeKalb County~~ the city who contributes, causes, or permits the contribution or discharge of wastewater into sewers within ~~DeKalb County's~~ the city's boundaries.
- (22) *Georgia state permitted transporter* means a transporter as that term is defined by O.C.G.A. § 12-15-20 and as may hereinafter be amended.
- (23) *Grease trap* means an inside mechanism no less than one hundred (100) pounds and no more than three hundred (300) pounds in size, with baffle and flow control installed before the master trap.
- (24) *Hot flushing* means a prohibited ~~situation prohibited in DeKalb County~~ that occurs when the FOG interceptor is too close to a hot-water-using device so the water does not cool sufficiently in the interceptor to allow the FOG to coagulate and float to the top and FOG is instead carried out to the sewer system.
- (25) *Limited food preparation establishment* means an establishment that is engaged only in reheating or serving of ready-to-eat food products and, as a result, discharges wastewater containing less than one hundred (100) mg/L of FOG per operating business day. A limited food preparation establishment does not include any operation that changes the form, flavor, or consistency of food.
- (26) *New construction* means any structure, planned or under construction, where a sewer connection permit is required by law or regulation but has not been issued ~~by the county~~.
- (27) *Nonhazardous manifest* means a receipt that is retained by the generator of wastes for disposing of FOG, liquids, or other wastes as required by DeKalb County.
- (28) *Plumbing Drainage Institute rating* means interceptors that are tested, rated, and certified in conformance with Standard Plumbing Drainage Institute— G101 by the Plumbing and Drainage Institute.
- (29) *Regulatory agencies* means those agencies having regulatory jurisdiction over the operations of ~~DeKalb County~~ the city including, but not limited to: the United States

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Environmental Protection Agency, region IV, Georgia and Washington, D.C. (EPA); the Georgia Department of Natural Resources (DNR); the Georgia Division of Public Health; the Georgia Environmental Protection Division (EPD); ~~the county~~DeKalb County; or any regulatory agency or body as may be established by federal, state, or local law.

- (30) *Remodeling or remodeled* means a physical change or operational change in a structure that requires an issuance of or revision to a business license or a building permit.
- (31) *Septic tank* means a hollow chambered tank without a baffle, T's, and flow control to restrict FOG from entering the ~~county's~~public sewer system.
- (32) *Sewer system* means such system as defined in section 25-146151 and as may hereinafter be amended.
- (33) *Sewer system provider* means such entity as defined in section 25-151 and as may hereinafter be amended.
- (34) *Shovel inspection* means a FOG compliance inspector who uses a shovel to determine the condition of the FOG interceptor.
- (35) *Sludge* means any solid, semisolid or liquid decant, subnate or supernate from a manufacturing process, utility service, or pretreatment facility.
- (36) *Sludge judge inspection* means a test in which the FOG compliance inspector uses an instrument, usually a clear hollow plastic tube, to pull and measure a core sample from the FOG interceptor to determine its condition.
- (37) *Standard Plumbing Drainage Institute—G101* means a comprehensive engineering and testing program developed to establish flow rates and FOG holding capacity for uniform rating of FOG interceptors.
- (38) *Total solids* means the sum of suspended and dissolved solids within a sample.
- (39) *Twenty (20) percent rule* means the requirement for FOG interceptors to be maintained such that the combined FOG solids accumulation does not exceed twenty (20) percent of the design hydraulic capacity of the FOG interceptor.
- (40) *Visual inspection* means an in-person observation by a FOG compliance inspector to determine if a shovel inspection and/or a sludge judge inspection is necessary to determine the condition of the FOG interceptor.
- (41) *Waste* means sewage and any and all other waste substances, liquid, solid, or gaseous, associated with human habitation or of human or animal nature intended for disposal.
- (42) *Wastewater constituents and characteristics* means the individual chemical, physical, and bacteriological parameters, including volume and flow rate, and such other parameters that serve to define, classify, or measure the quality and quantity of wastewater.

~~(Ord. No. 07-03, Pt. I, 3-27-07)~~

~~Sec. 25-265-2302.~~ - Purpose, scope, and policy.

- (a) These regulations are designed to facilitate the maximum beneficial public use of ~~DeKalb County's~~ the public sewer system while preventing blockages and overflows of sewer system resulting from discharges of FOG into the ~~DeKalb County~~ public sewer system and to specify appropriate FOG discharge requirements for all facilities emitting FOG.
- (b) By enactment of these regulations, ~~DeKalb County~~ the City intends to exercise its authority over sizing, location, maintenance, and material of grease traps and/or interceptors within ~~unincorporated DeKalb County~~ its municipal limits.
- (c) The provisions of these regulations shall apply to the direct or indirect discharge of all wastewater or waste containing FOG discharged into the ~~DeKalb County~~ public sewer system.
- (d) These regulations establish quantity and quality standards on all wastewater and/or waste discharges containing FOG; which may alone or collectively cause or contribute to FOG accumulation in the sewer system causing or potentially causing or contributing to the occurrence of sanitary sewer overflows and blockages.

~~(Ord. No. 07-03, Pt. I, 3-27-07)~~

**Sec. 25-265.3.303 - Transporters of nonhazardous commercial waste.**

O.C.G.A. § 12-15-20 et seq. sets forth a permitting scheme for transporters of commercial waste and provides a regulatory method for the clean and sanitary removal of commercial waste. O.C.G.A. § 12-15-23 specifically authorizes ~~counties~~ a local governing authority, such as the City, and its duly authorized agents to enforce compliance with the provisions of the state law described in this section. O.C.G.A. § 12-15-20 et seq. as currently enacted and as may hereinafter be amended, is therefore adopted by reference as if set out fully in this section.

~~(Ord. No. 07-03, Pt. I, 3-27-07)~~

**Sec. 25-265.4304. - Best management practices.**

- (a) All persons disposing of FOG shall be required to properly dispose of FOG using all of the following best management practices:
  - (1) Dispose of FOG in covered collection containers;
  - (2) Place food scraps from dishes into trashcans and garbage bags and dispose of properly;
  - (3) Avoid disposing of food scraps in garbage disposers to help maintain interceptor volume;
  - (4) Allow FOG to cool first before it is skimmed, scraped, or wiped off of all preparation and servicing surfaces;
  - (5) Prewash dishes and pans with cold water before putting them in the dishwasher;
  - (6) Cover the kitchen sink drain with screening and empty debris into the garbage as needed;
  - (7) Cover the floor drain with a fine screen and empty into the garbage can as needed; and
  - (8) Recycle used fryer oil.
- (b) All persons disposing of FOG shall not use any of the following practices when disposing of FOG:
  - (1) Pouring FOG down the drain;
  - (2) Putting food scraps down the drain; or



- (3) Running hot water over dishes, pans, fryers, woks, and griddles to rinse FOG down the drain (also known as hot flush).

~~(Ord. No. 07-03, Pt. I, 3-27-07)~~

**Sec. 25-265.5305. - Requirements for interceptor and specific plumbing connections.**

- (a) All food service establishments shall only introduce pretreated wastewater acceptable to ~~DeKalb County~~ the sewer system provider, under the requirements and standards established herein before discharging, directly or indirectly, into any ~~DeKalb County~~ public sewer system.
- (b) No more than one hundred (100) mg/L of FOG shall be discharged per operating business day. The FOG generator shall bear all of the expense of proving compliance with the one-hundred-mg/L threshold.
- (c) Any food service establishment required to provide FOG pretreatment shall install, operate, and maintain an appropriately designed and adequately sized FOG interceptor that has been approved by the ~~chief executive officer or design~~ director.
- (d) The testing procedures for waste constituents and characteristics shall be as provided in 40 CFR 136 (~~Code of Federal Regulations~~).
- (e) FOG interceptors shall be connected to the food service establishment's lateral sewer line after all fixtures which may introduce FOG have been connected and shall have fresh air connected, as defined in these regulations. Fresh-air fixtures include, but are not limited to, sinks, dishwashers, garbage disposals, automatic hood wash units, floor drains in food preparation and storage areas, and any other fixtures which have a potential to introduce FOG. Wastewater from sanitary sewer fixtures and other similar fixtures shall not be introduced into the FOG interceptor.
- (f) FOG interceptors shall not be connected to septic tanks.
- (g) All food service establishments that have dumpster pad/trash compactor drains on site and are connected to the sewer system shall have a separate interceptor (no less than one thousand (1,000) gallons in size) installed and functioning at all times. The sloping area to the outside drain and the drain shall be covered either by the dumpster/compactor or a canopy to prevent inflow and infiltration of rainwater.
- (h) Any drains that lead to the sewer system including, but not limited to, trench drains, enclosed dock drains, carwash drains, elevator drains, and other similar types of drains shall have an oil-water debris interceptor of no less than one thousand (1,000) gallons and no more than three thousand (3,000) gallons in capacity.

~~(Ord. No. 07-03, Pt. I, 3-27-07)~~

**Sec. 25-265.6306. - FOG interceptor physical specifications/requirements.**

- (a) All interior FOG interceptors shall:
  - (1) Be a minimum of one hundred (100) pounds in capacity as defined by the Plumbing Drainage Institute;
  - (2) Be made of corrosion-resistant coated metal;
  - (3) Be properly sized based on the results of an inspection and FOG evaluation;

- (4) Contain properly installed and functioning baffle walls and other flow control devices necessary to achieve the appropriate retention time;
  - (5) Have at least a thirty-minute interior retention time before gray water is discharged into the sewer system;
  - (6) Tie all of the fresh air fixtures to the FOG interceptor;
  - (7) Have fifteen-foot distance between the FOG interceptor and the last fresh air fixture and have a proper flow control device;
  - (8) Have a temperature of discharge entering the interior FOG interceptor that does not exceed one hundred forty (140) degrees Fahrenheit; and
  - (9) ~~Be~~Have a Plumbing Drainage Institute rateding, be accessible for inspection, and be installed in accordance with the manufacturer's specifications by a licensed plumber and not a representative and/or an apprentice of the licensed plumber.
- (b) All exterior FOG Interceptors shall:
- (1) Be a minimum of one thousand (1,000) gallons in capacity;
  - (2) Be properly sized based on the results of an inspection and FOG evaluation;
  - (3) Be constructed of re-enforced materials suitable for load bearing and water tight to prevent inflow and infiltration;
  - (4) Be precast with a minimum of three thousand (3,000) psi concrete per applicable American Society for Testing and Materials standards with four (4) to seven (7) percent air entrapment;
  - (5) Have an invert elevation of the inlet between three (3) inches to six (6) inches above the invert elevation of the outlet;
  - (6) Contain a properly installed and functioning baffle wall and other flow control devices necessary to achieve an adequate time for FOG to properly separate but not to exceed twenty-four (24) hours;
  - (7) Contain inlet and outlet T's made of schedule 40 PVC piping and at a ninety-degree angle with a minimum diameter of the inlet and outlet piping to be six (6) inches;
  - (8) Include the outlet T six (6) inches from the manhole cover;
  - (9) Include T piping of the inlet and outlet that is within eighteen (18) inches of the bottom and at least five (5) inches above the static liquid level of the tank;
  - (10) Have the FOG interceptor set level on a consolidated, stable base so that no settling or tipping of the FOG interceptor can occur;
  - (11) Connect all of the fresh-air fixtures to the FOG interceptor;
  - (12) Have the outlet discharge line from the FOG interceptor directly connected to a sewer line tapped into the collection main;
  - (13) Have solid manhole covers to prevent inflow and infiltration;
  - (14) Have two (2) or more manholes for entry to each chamber of hydraulic liquid mass;
  - (15) Be accessible for inspections and have no permanent or temporary structure or container placed directly over the FOG interceptor or installed in areas subject to traffic; and
  - (16) Be installed by a licensed plumber.
- (c) The contents of any fryer-oil containers shall not be mixed with any other FOG interceptor waste or any other no-toxic or toxic substances.

(Ord. No. 07-03, Pt. I, 3-27-07)

**Sec. 25-265.7307. - Maintenance requirements for new and existing FSE's.**

- (a) *Depth of FOG.* The depth of FOG (floating and settled) in the FOG interceptor shall not be equal to or greater than twenty (20) percent of the total operating depth of the interceptor.
- (b) *General requirements for FOG interceptors.* In order to maintain FOG interceptors, all food service establishments shall remove the sludge, floating materials, solids, and wastewater, and shall scrape all excessive solids from the walls, floor, baffles, and all pipe work and shall pump interior and exterior FOG interceptors dry as set forth in these regulations and as required by the terms and conditions of the permit.
  - (1) FOG interceptors shall be kept free from any inflow/infiltration such as grit, rocks, gravel, sand, eating utensils, cigarettes, shells, towels, rags, etc., as such inflow reduces the effectiveness of the FOG interceptor; thereby increasing the need for more frequent cleaning.
  - (2) To insure that the FOG interceptor can be maintained properly, the FOG interceptor needs to be free from any obstruction that would hinder the maintenance, function, and inspection of the interceptor.
  - (3) A Georgia Sstate Ppermitted Ttransporter shall perform all maintenance of FOG interceptors. All Georgia Sstate Ppermitted Ttransporters working in ~~unincorporated DeKalb County~~in the municipal limits of the City shall have an active Georgia Wwaste Ttransporter's Ppermit and a DeKalb County Ttransporters Ppermit in the manner and form set forth by O.C.G.A. § 12-15-20 et seq. Transporters working in ~~DeKalb County~~the municipal limits of the City are required to leave a copy of a nonhazardous waste manifest with the food service establishment. Maintenance schedules may vary based on individual circumstances to protect the sewer system.
  - (4) The FOG compliance inspector has the authority to change the FOG interceptors cleaning cycles for any FOG generator at any time.
  - (5) The discharge or introduction of any additives to the sewer system is unlawful and prohibited. The direct introduction of additives into the FOG interceptor is prohibited. Additives include but are not limited to biological agents such as enzymes, bacteria, and/or degreasing agents.
  - (6) The FOG generator shall be responsible for the proper removal and disposal of the FOG interceptor waste by a Georgia Sstate Ppermitted Wwaste Ttransporter and maintenance of records of disposal as specified in this section. All waste removed from each FOG interceptor must be disposed of at an appropriate disposal facility designed to receive such waste.
  - (7) No FOG interceptor pumpage shall be discharged to the sewer system as otherwise prohibited in these regulations.
  - (8) Every FOG interceptor shall be required to have a Georgia Nnonhazardous Wwaste Mmanifest. The Georgia Nnonhazardous Wwaste Mmanifest must be complete with all information required by these regulations and state law.
  - (9) Mechanical FOG interceptors are prohibited in ~~DeKalb County~~the municipal limits of the City.

- (c) *Exterior FOG interceptors.* Maintenance of exterior FOG interceptors shall be performed at least once every ninety (90) days. Skimming, decanting, and/or any reintroduction of water into exterior FOG interceptors shall not be allowed under any conditions.
- (d) *Interior FOG interceptors.* Interior FOG interceptors maintenance shall be performed once every thirty (30) days, and all of the fresh air and/or safe-way plumbing fixtures shall be connected. In-house cleaning of interior FOG interceptors is prohibited. To insure proper FOG interceptor maintenance, interior FOG interceptors shall be free from any obstruction that would hinder the maintenance of the interceptor. Interior FOG interceptors shall be easily accessible with a minimum clearance of thirty-six (36) inches.
- (e) *Interior and exterior FOG interceptor records.* All food service establishments shall maintain records of the date and time of all cleaning and maintenance. Every FOG interceptor manifest shall be placed in a logbook, folder, or three-ring notebook. This book shall be made available on demand by the FOG compliance inspector during inspection. All records of at least three (3) years shall be kept on site and available. These records shall include:
  - (1) A logbook of FOG interceptor and/or FOG control device cleaning and maintenance;
  - (2) A record of best management practices being implemented, including employee training;
  - (3) Copies of records and manifests of waste transporting interceptor contents;
  - (4) Records of any spills and/or cleaning of the lateral sewer line; and
  - (5) Records of sampling data and sludge height monitoring for FOG and solids accumulation in the FOG interceptors.

(Ord. No. 07-03, Pt. I, 3-27-07)

**Sec. 25-265.8308. - Notification of spills by the food service establishment.**

- (a) In the event that any food service establishment is unable to comply with any permit condition due to a breakdown of equipment, accidents, or human error or the food service establishment has reasonable opportunity to know that his/her/its discharge shall exceed the discharge provisions of the FOG wastewater discharge permit or these regulations, the food service establishments shall immediately notify the FOG control program manager or his designee by telephone at the number specified in the permit. If the material discharged to the sewer has the potential to cause or result in sewer blockages or sanitary sewer overflows, the food service establishment shall immediately notify the FOG control program manager or his designee by telephone at the number specified in the permit and the Director of the DeKalb County Health Department or his designee orally or by telephone at the published numbers for such departments.
- (b) All food service establishments shall provide written notification of this oral or telephonic notification to the FOG control program manager at the address specified in the permit no later than five (5) working days from the date of the incident. The written notification shall state the date of the incident, the reasons for the discharge or spill, what steps were taken to immediately correct the problem, and what steps are being taken to prevent the problem from recurring.
- (c) Such notification shall not relieve a food service establishment of any expense, loss, damage, or other liability which may be incurred as a result of damage or loss to DeKalb

~~County~~ the City or any other damage or loss to person or property; nor will such notification relieve a food service establishment from payment of any fees or imposition of any other liability which may be authorized by these regulations or other applicable law.

(Ord. No. ~~07-03, Pt. I, 3-27-07~~)

**Sec. ~~25-265.9309~~ - FOG wastewater discharge permit – Required; Issuance.**

- (a) Food service establishments proposing to discharge or currently discharging wastewater that contains FOG into the ~~DeKalb County~~ public sewer system shall obtain a FOG wastewater discharge permit annually or cease ongoing operation until such permit is obtained. In addition to any other penalties authorized by law, failure to obtain such a permit shall subject the food service establishment to the potential of the disconnection of water service, until such permit is obtained.
- (b) FOG wastewater discharge permits shall be subject to all provisions of these regulations and all other regulations, charges for use, and fees established by DeKalb County. ~~DeKalb County~~ The City or its designee, in accordance with these regulations and applicable law, shall have the authority to enforce the conditions of FOG wastewater discharge permits.
- (c) The FOG wastewater discharge permit shall be issued upon:
  - (1) Receipt of a complete application,
  - (2) Compliance with these regulations,
  - (3) Compliance with the applicable provisions of this Code, and
  - (4) The proper installation and maintenance of a FOG interceptor that complies with the applicable provisions of this Code.
- (d) In the event that the food service establishment complies with the applicable provisions of these regulations, a permit will be issued or denied within thirty (30) days of compliance with this section. If the permit is not issued or denied within the time frame specified herein, the permit shall be deemed issued and approved.

(Ord. No. ~~07-03, Pt. I, 3-27-07~~)

**Sec. ~~25-265.10310~~ - FOG wastewater discharge permit – Application.**

- (a) All food service establishments are required to obtain a FOG wastewater discharge permit and shall complete and file with ~~DeKalb County~~ the sewer system provider prior to commencing or continuing discharges, an application for a wastewater discharge permit in a form prescribed by ~~DeKalb County~~ the sewer system provider along with any applicable fees. The applicant shall submit, in units and terms appropriate for evaluation, the following information:
  - (1) Name, address, telephone number, assessor's parcel number(s), description of the food service establishment, operation, cuisine, service activities, and, as applicable, clients using the applicant's services;
  - (2) Whichever is applicable, the name and address of any and all principals/owners/major shareholders of the food service establishment, articles of incorporation, most recent

report of the secretary of state, and a copy of the owner's ~~business license~~ occupation tax certificate;

- (3) Name and address of property owner or lessee and the property manager for the property where the food service establishment is located; and
- (4) Any other information specified in the application form.
- (b) Applicants may be required to submit site plans, floor plans, mechanical and plumbing plans, and details to show all sewers, FOG control devices, FOG interceptors, or other pretreatment equipment and appurtenances by size, location, and elevation for evaluation.
- (c) Other information related to the applicant's business operations and potential discharge may be requested to properly evaluate the permit application.
- (d) After evaluation of the data furnished, ~~DeKalb County~~ the sewer service provider may issue a FOG wastewater discharge permit, subject to the terms and conditions set forth in these regulations and as otherwise determined by the FOG control program manager to be appropriate to protect ~~DeKalb County's~~ the public sewer system.
- (e) The FOG wastewater discharge permit and application fee shall be paid by the applicant in an amount adopted by action of the governing authority. Payment of the application permit fee must be received by ~~DeKalb County~~ the sewer service provider at the time of filing the application for the permit. A food service establishment shall also pay any delinquent invoices in full prior to any permit renewal.
- (f) An application shall not be considered complete until all the information required by this section is provided to the FOG control program manager or designee. The FOG control program manager shall have fifteen (15) business days from receipt of such information to advise a food service establishment that an application is not complete.

(Ord. No. 07-03, Pt. 1, 3-27-07)

**Sec. 25-265-~~11311~~ - FOG wastewater discharge permit conditions.**

The issuance of a FOG wastewater discharge permit may contain any of the following conditions or limits:

- (a) Limits on discharge of FOG (one hundred (100) mg/L), which may cause or contribute to sanitary sewer overflows and/or sewer blockages;
- (b) Requirements for proper operation and maintenance of FOG interceptors and other FOG control devices;
- (c) FOG interceptor maintenance frequency and schedule;
- (d) Requirements for implementation of best management practices and installation of adequate FOG interceptor and/or FOG control device;
- (e) Requirements for maintaining and reporting status of best management practices;
- (f) Requirements for maintaining and submitting logs and records, including waste hauling records and waste manifests;
- (g) Requirements to self-monitor the discharge to the sewer system and periodically assess and report on the condition of the sewer lateral;
- (h) Requirements for the food service establishment to construct operate and maintain, at its own expense, a FOG control device(s) and sampling facilities;

- (i) Additional requirements as otherwise determined to be reasonably appropriate by the FOG control program manager to protect ~~DeKalb County's~~ the public sewer system or as specified by other regulatory agencies; and
  - (j) Other terms and conditions which may be reasonably applicable to ensure compliance with these regulations.
- ~~(Ord. No. 07-03, Pt. I, 3-27-07)~~

**Sec. 25-265.12312. - FOG wastewater discharge permit - ~~m~~Modification of terms and conditions.**

- (a) The terms and conditions of an issued permit may be modified by the FOG control program manager if there is a change in:
  - (1) The generator's current or anticipated operating data;
  - (2) ~~DeKalb County~~ The sewer system provider's current or anticipated operating data;
  - (3) The requirements of regulatory agencies which affect ~~DeKalb County~~ the sewer system provider; or
  - (4) A determination by the FOG control program manager and his or her designee that such modification is required to comply with the provisions of these regulations.
- (b) The food service establishment may request a modification to the terms and conditions of an issued permit. The request shall be in writing stating the requested change and the reasons for the change. The FOG control program manager shall review the request, make a determination on the request, and respond in writing within thirty (30) days of receipt of the request.
- (c) The food service establishment shall be informed of any change in the permit limits, conditions, or requirements at least forty-five (45) days prior to the effective date of the change. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance, not to exceed forty-five (45) days.

~~(Ord. No. 07-03, Pt. I, 3-27-07)~~

**Sec. 25-265.13313. - Permits for new and existing facilities, grandfathering, and effective date.**

- (a) *New facilities.* Food service establishments which are newly proposed, constructed, or existing facilities which will be expanded or renovated, shall be required to install a properly sized FOG interceptor according to the requirements set forth in these regulations and such FOG interceptors shall be permitted and installed prior to the issuance of a certificate of occupancy for the food service establishment.
- (b) *Existing facilities.* ~~DeKalb County~~ The City and the sewer system provider requires all existing food service establishments to install, operate, and maintain a FOG interceptor that complies with the requirements set forth in these regulations. All food service establishments shall repair or replace any ~~none~~ ~~complaint~~ ~~[noncompliant]~~ plumbing or the existing FOG interceptor within ninety (90) days of written notification by ~~DeKalb~~

~~County~~the sewer system provider if any one or more of the following conditions exist or occur:

- (1) The facility is found to produce any product that creates FOG as a byproduct;
  - (2) The facility does not have a FOG interceptor;
  - (3) The facility has an undersized, irreparable, improperly configured, or defective FOG interceptor;
  - (4) Remodeling of the food preparation or kitchen waste plumbing system is performed which requires a plumbing permit to be issued the applicable authority by DeKalb County;
  - (5) The existing facility is sold or undergoes a change of ownership or expansion;
  - (6) The existing facility does not have plumbing connection to a FOG interceptor in compliance with the requirements of ~~DeKalb County~~the sewer system provider; or
  - (7) If a food service establishment changes its business name.
- (c) *Grandfathering.* If an existing food service establishment is housed in a structure that because of its architectural or historical restrictions the owner will suffer extreme economic hardship in order to upgrade the existing FOG interceptor, then the establishment may keep the current FOG interceptor in place provided that all fresh-air fixtures must be tied into the current FOG interceptor, and the FOG interceptor must be at least fifteen (15) feet from the last fresh-air fixture. Additionally, the FOG interceptor must be cleaned every ten (10) days by a Georgia State Permitted Transporter. In the event that any remodeling of such a food service establishment is undertaken or if the food service establishment changes ownership, then a FOG interceptor that complies with all applicable requirements of this eCode shall be installed.
- (d) *Notification of planned changes.* All food service establishments shall notify the FOG compliance manager at least ninety (90) days in writing in advance prior to any change of ownership, facility expansion/remodeling, or process modifications that may result in new or substantially increased FOG discharges or a change in the nature of the discharge. All food service establishments shall submit any information requested by ~~DeKalb County~~the sewer system provider for evaluation of the effect of such expansion on the ~~f~~Food service establishment's FOG discharge to the sewer system.
- (e) *Effective date.* ~~These regulations shall not become fully effective until eighteen (18) months after their adoption by the board of commissioners and approval by the chief executive officer. During this eighteen month period, the chief executive officer or designee shall promulgate a written policy to ensure that all existing food service establishments in DeKalb County come into compliance with and obtain the necessary permits required by these regulations. The delayed effective date of these regulations is designed to allow a staggered schedule of inspections and permitting such that all existing food service establishments in DeKalb County are in compliance with and have obtained the required permits on or before the expiration of the eighteen (18) months described in this section. During this eighteen-month period, food service establishments shall comply with the inspection and permitting staggered schedule promulgated by the chief executive officer and if in compliance with~~



~~such staggered schedule, such food service establishments shall not be subject to citation for failure to be in compliance with these regulations or for failure to have obtained the required permit(s) delineated in these regulations. After the expiration of this eighteen month period, all existing and newly constructed or remodeled food service establishments shall comply with all applicable requirements of this chapter. These regulations shall become effective immediately upon adoption for all new and existing food service establishments and subject to the written policy promulgated by the sewer system provider.~~

~~(Ord. No. 07-03, Pt. I, 3-27-07)~~

**Sec. 25-265.14314. - FOG wastewater discharge permit duration and renewal.**

FOG wastewater discharge permits shall be issued annually. At least thirty (30) days prior to the expiration of the permit, the user shall apply for renewal of the permit in accordance with the provisions of ~~chapter 25 article 3 of this Code~~ Article III of this Chapter.

~~(Ord. No. 07-03, Pt. I, 3-27-07)~~

**Sec. 25-265.15315. - Exemption from FOG wastewater discharge permit.**

A limited food preparation establishment is not considered a food service establishment and is exempt from obtaining a FOG wastewater discharge permit.

~~(Ord. No. 07-03, Pt. I, 3-27-07)~~

**Sec. 25.265.16316. - Nontransferability of permits and fees.**

- (a) FOG wastewater discharge permits issued under these regulations are for a specific food service establishment, for a specific operation, and create no vested rights.
- (b) No permit holder shall assign, transfer, or sell any FOG wastewater discharge permit issued under these regulations nor use any such permit for or on any premises or for facilities or operations or discharges not expressly encompassed within the underlying permit.
- (c) A permitting fee that covers the administrative costs of ~~DeKalb County~~ the sewer system provider for administering the FOG program shall be established by action of the governing authority and assessed to each facility subject to these regulations.

~~(Ord. No. 07-03, Pt. I, 3-27-07)~~

**Sec. 25-265.17317. - Payment of charges.**

All fees established by these regulations are due and payable upon receipt of notice thereof. Accounts shall become delinquent if not paid within thirty (30) days of the date of mailing, or if personally delivered, the date of delivery. Any invoice outstanding and unpaid after ninety (90)

days shall be cause for immediate initiation of permit revocation proceedings or immediate suspension of the permit.

~~(Ord. No. 07-03, Pt. I, 3-27-07)~~

**Sec. ~~25-265.18318~~. - Inspections and authority to enforce regulations.**

- (a) *Authority to inspect.* The compliance inspectors shall inspect food service establishments on both an unscheduled and unannounced basis or on a scheduled basis. All food service establishments may be inspected up to four (4) times per year. Inspection of a FOG interceptor shall be performed at frequencies necessary to protect the capacity of the sewer system against the accumulation of FOG in an amount that would exceed the twenty (20) percent rule. Inspection shall include all fixtures, equipment, food processing, and storage areas, and shall include a review of the processes that produce wastewater discharged from a facility through the FOG interceptor. Any deficiencies shall be noted, including but not to be limited to:
- (1) Failure to report changes in operations or wastewater constituents and characteristics;
  - (2) Failure to properly maintain the FOG interceptor;
  - (3) Failure to maintain logs, files, records, or access for inspection or monitoring activities;
  - (4) Failure to obtain or renew the FOG discharge permits in a timely manner; or
  - (5) Any other violations of these regulations or state law that requires correction by the food service establishment.
- (b) *Right of entry.* Where it is necessary to make an inspection to enforce the provisions of these regulations or where the FOG control program manager or designee has reasonable cause to believe that there exists in a building or structure or upon a premises a condition which is contrary to or in violation of the applicable provisions of this Code, the FOG control program manager or designee is authorized to enter the building, structure or premises at reasonable times to inspect or perform any of the duties imposed by the applicable provisions of this Code. If such building, structure, or premises is occupied, the inspector shall present credentials to the occupant and shall request entry. If such building, structure, or premises is unoccupied, the inspector shall first make a reasonable effort to locate the owner or other person having charge or control of the building, structure, or premises and request entry. If entry is refused, the inspector shall have recourse to the remedies provided by law for entry. In the event of an emergency involving actual or imminent sanitary sewer overflow, the inspector may access adjoining businesses or properties that share a sewer system with a food service establishment in order to prevent or remediate an actual or imminent sewer overflow.

~~(Ord. No. 07-03, Pt. I, 3-27-07)~~

**Sec. ~~25-265.19319~~. - Noncompliance fees, letters, and schedules.**

- (a) *Reinspection fee.* Any food service establishment in noncompliance with the terms and conditions specified in its permit or with any provision of these regulations shall pay a noncompliance fee. The purpose of the noncompliance fee is to compensate ~~DeKalb County~~ the City and/or the sewer system provider for costs of additional inspections, followups, sampling, monitoring, laboratory analysis, treatment, disposal, and administrative processing incurred as a result of the noncompliance, and shall be in addition to and not in lieu of any penalties as may be assessed pursuant to these regulations. Noncompliance fees shall be in the amount adopted by action of the governing authority.
- (eb) *Noncompliance Letters.* Immediately following every inspection and/or FOG evaluation, the food service establishment inspected shall receive a letter indicating the results of the inspection. A certified letter of noncompliance means the food service establishment is in violation of the applicable provisions of this Code. Letters of noncompliance shall include a description of the code section being violated and the immediate course of action the food service establishment shall be required to take to come into compliance. Failure to comply with a letter of non-compliance is also a violation of these regulations.
- (dc) *Compliance schedule.* Upon determination that a food service establishment is noncompliant with the terms and conditions specified in its permit or any provision of these regulations or needs to construct and/or acquire and install a FOG interceptor, the FOG control program manager may also issue and require the food service establishment to abide by a compliance schedule. The issuance of a compliance schedule may contain terms and conditions including, but not limited to, requirements for installation of a FOG interceptor and facilities, submittal of drawings or reports, audit of waste hauling records, best management and waste minimization practices, payment of fees, or other provisions to ensure compliance with these regulations.
- (ed) *Fees.* The FOG control program manager shall not issue a compliance schedule until such time as all amounts owed by the food service establishment to DeKalb County, due are paid in full. If compliance is not achieved in accordance with the terms and conditions of a compliance schedule, the FOG control program manager may issue an order suspending or revoking the FOG wastewater discharge permit.

(Ord. No. 07-03, Pt. I, 3-27-07)

**Sec. 25-265-20320. - Permit suspension and revocation.**

- (a) *Permit suspension and revocation.* The FOG control program manager may suspend or revoke any permit when it is determined that a food service establishment:
- (1) Fails to comply with the terms and conditions of a noncompliance letter or compliance schedule order;
  - (2) Destroys, removes, conceals, or knowingly provides a false statement, representation, record, report, or other document to ~~DeKalb County~~ the City or the sewer service provider;

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- (3) Refuses to provide records, reports, plans, or other documents required by ~~DeKalb County~~the City or the sewer service provider to determine permit terms or conditions, discharge compliance, or compliance with these regulations;
- (4) Falsifies, tampers with, destroys, or knowingly renders inaccurate any monitoring device or sample collection method;
- (5) Does not make timely payment of all amounts owed to ~~DeKalb County~~the City and/or the sewer service provider for user charges, permit fees, or any other fees imposed pursuant to these regulations;
- (6) Causes interference, a sewer blockage, or a sanitary sewer overflow in the sewer system, violates FOG interceptor maintenance requirements, violates any condition or limit of its FOG wastewater discharge permit, or violates any provision of these regulations; or
- (7) Refuses to accept a notice by personal service or certified mail.

(b) *Notification.*

- (1) When the FOG control program manager has reason to believe that grounds exist for permit suspension or revocation, he/she shall give written notice thereof by certified mail to the food service establishment setting forth a statement of the facts and grounds deemed to exist, together with the time and place where the charges shall be heard by the director. The hearing date shall be not less than fifteen (15) calendar days or more than forty-five (45) calendar days after the mailing of such notice.
- (2) At the suspension or revocation hearing, the food service establishment shall have an opportunity to respond to the allegations set forth in the notice by presenting written or oral evidence. The hearing shall be conducted in accordance with written procedures established by the director. The director shall conduct the hearing and shall render a decision in writing within thirty (30) calendar days after the conclusion of the hearing.
- (3) The written decision and order of the director shall be sent by certified mail to the food service establishment at the food service establishment's business address. Upon an order of suspension or revocation by the FOG control program manager becoming final, the food service establishment shall immediately cease and desist its discharge and shall have no right to discharge any wastewater containing FOG directly or indirectly into ~~DeKalb County's~~the public sewer system for the duration of the suspension. All costs for physically terminating and reinstating service shall be paid by the food service establishment. Any owner or responsible management employee of the food service establishment shall be bound by the order of suspension or revocation. Upon an order of revocation by the FOG control program manager becoming final, the food service establishment shall permanently lose all rights to discharge any wastewater containing FOG directly or indirectly to ~~DeKalb County's~~the public sewer system. All costs for physical termination shall be paid by the food service establishment.
- (4) An order of permit suspension or revocation issued by the FOG control program manager shall be final in all respects on the sixteenth day after it is mailed to the food service establishment.

- (c) *Damage to facilities or interruption of normal operations of the sewer system.* Any person who discharges any waste which causes or contributes to any sewer blockage, sanitary sewer overflows, obstruction, interference, damage, or any other impairment to ~~DeKalb County's~~ the public sewer system and/or equipment, or to the operation of those facilities and/or equipment shall be liable for all costs required to clean and/or repair the facilities and/or equipment, together with expenses incurred by ~~DeKalb County~~ the City and/or the sewer system provider to resume normal operations. A service charge of twenty-five (25) percent of ~~DeKalb County's~~ the costs incurred by the City and the sewer system provider shall be added to the costs and charges to reimburse ~~DeKalb County~~ for miscellaneous overhead, including administrative personnel and recordkeeping. The total amount shall be payable within forty five (45) days of invoicing ~~by DeKalb County~~. Any person who discharges a waste which causes or contributes to ~~DeKalb County~~ the City and/or the sewer system provider violating ~~its~~ the discharge requirements established by any Regulatory Agency incurring additional expenses or suffering losses or damage to the facilities and/or equipment shall be liable for any costs or expenses incurred by ~~DeKalb County~~ the City and/or the sewer system provider, including regulatory fines, penalties, and assessments made by other agencies or a court.
- (d) *Termination of water service to the food service establishment.* ~~DeKalb County~~ The City, the sewer system provider and/or the water system provider, by order of the FOG control program manager, may physically terminate water service to any property as follows:
- (1) If so ordered in any order of suspension or revocation of a permit; or
  - (2) Upon the failure of a person not holding a valid FOG Wastewater discharge permit to immediately cease the discharge, whether direct or indirect, to ~~DeKalb County's~~ the public sewer system after the issuance of a final order or suspension or revocation.
  - (3) All costs for physical termination of the water service shall be paid by the owner or operator of the food service establishment as well as all costs for reinstating service.
- (e) *Emergency suspension order.* ~~DeKalb County~~ The City, the sewer system provider and/or the water system provider may, by order of the FOG control program manager or designee, suspend water service when the FOG control program manager or designee determines that such suspension is necessary in order to stop an actual or impending discharge which presents or may present an imminent or substantial endangerment to the health and welfare of persons, or to the environment, or may cause sanitary sewer overflows, sewer blockages, interference to ~~DeKalb County's~~ the public sewer facilities, or may cause ~~DeKalb County~~ the City, the sewer system provider or the water service provider to violate any state or federal law or regulation. Any discharger notified of and subject to an emergency suspension order shall immediately cease and desist the discharge of all wastewater containing FOG to the sewer system.
- (f) *Emergency suspension hearing.* As soon as reasonably practicable following the issuance of an emergency suspension order, but in no event more than five (5) business days following the issuance of such order, the director shall hold a hearing to provide a food service establishment the opportunity to present information in opposition to the issuance of the emergency suspension order. Such a hearing shall not stay the effect of the emergency

suspension order. The hearing shall be conducted in accordance with written procedures established by the director. The director shall issue a written decision and order within two (2) business days following the hearing, which decision shall be sent by certified mail to the food service establishment at that food service establishment's business address. This decision shall either lift the emergency suspension order or suspend or revoke the permit subject to the suspension and revocation appeal process set forth in these regulations.

~~(Ord. No. 07-03, Pt. I, 3-27-07)~~

**Sec. ~~25-265.24321.~~ - Criminal penalties.**

- (a) Any person that does anything prohibited or fails to do anything required by these regulations, upon citation and conviction of the violation in a court of competent jurisdiction, shall be subject to the penalties in accordance with section ~~1-4011~~ of this Code. Where any offense or violation continues from day to day, each day's continuance thereof shall be deemed a separate offense.
- (b) Upon a second and subsequent conviction within a twelve-month period, measured from the date of the first conviction, of any violation of these regulations, the court shall impose a fine of not less than five hundred dollars (\$500.00) in addition to any other penalty or punishment imposed by the court.
- (c) Upon a third and subsequent conviction within a twelve-month period measured from the date of the first conviction of any violation of these regulations, the court shall impose a fine of not less than one thousand dollars (\$1,000.00) in addition to any other penalty or punishment imposed by the court.
- (d) The penalties provided in this section are not cumulative and shall not prohibit ~~DeKalb County~~ the City or the sewer system provider from pursuing any other civil or criminal remedies authorized by this Code or any provision of City, DeKalb County, state or federal law, state, or federal law.

~~(Ord. No. 07-03, Pt. I, 3-27-07)~~

~~Secs. 25-266—25-27525-322 – 25-350.~~ - Reserved.

**DIVISION ~~67.~~ - RATES AND CHARGES**

**Sec. ~~25-276351.~~ - Levied.**

A service charge is levied and assessed for the operation and maintenance of the sewer system. This charge is based on the amount of potable water consumed per month by each contributor to the sewer system. The rate at which this charge is levied shall be as established by action of the board of commissioners, a copy of which is on file in the office of the clerk of the board of commissioners. The charges imposed by this article may be periodically revised at the discretion of the board of commissioners. A readiness-to-serve charge is imposed for the operation of the sewer system based on the size of the customer's water meter. A surcharge for

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overstrength waste, i.e., wastes consisting of total suspended solids and/or five-day biochemical oxygen demand materials in concentrations exceeding 250 mg/l, ammonia in concentrations exceeding 30 mg/l, and total phosphorus exceeding 10 mg/l, is levied at a rate approved and adopted by the ~~board of commissioners~~ City or the governing authority of the sewer service provider.

~~(Code 1976, § 6-2011; Ord. No. 97-05, § 1, 3-11-97)~~

**Sec. 25-277352. - Billing.**

The ~~finance department~~ sewer system provider shall prepare for each contributor to the sewerage system a monthly or bimonthly notice of the amount due. This notice shall be addressed and mailed to the address as designated by the owner or occupant of the property. Payment is due in full ten (10) days from date notice is mailed, and shall be in default if not paid on or before the twentieth day after the date of the notice. Failure to receive the notice in no way relieves the occupant of liability for the amount due.

~~S(Code 1976, § 6-2012)~~

**Sec. 25-278353. - Collection.**

The ~~finance department~~ sewer system provider shall be responsible for the collection of all sewer service charges. It shall have deposited to the account of the water and sewer fund of the ~~county~~ sewer system provider all sums collected for water and sewer services as soon as received.

~~(Code 1976, § 6-2013)~~

**Sec. 25-279354. - Disconnection of service for failure to pay.**

If payment has not been received twenty (20) calendar days after the date of the notice of amount due for sewer services, a default notice shall be sent to the occupant of the property. If payment is not received within ten (10) days after the date of the default notice, then the ~~finance department~~ sewer system provider shall initiate action to terminate water service until such time as all sums due for sewer service, including penalties, are paid in full.

~~(Code 1976, § 6-2014)~~

~~Sec. 25-280. - Reserved.~~

~~Editor's note— Ord. No. 95-07, § 1, adopted May 23, 1995, repealed § 25-280, which pertained to liability of owner for failure of occupant to pay. See the Code Comparative Table.~~

**Sec. 25-281355. - Right of county to tax for benefit of sewer system.**

Nothing in this article shall be construed as limiting the right of the ~~board of commissioners~~ City or the governing authority of the sewer system provider to exercise its right as authorized by law to create, operate and maintain the sewerage system through the imposition of ad valorem taxation.

~~(Code 1976, § 6-2016)~~

**Sec. 25-282356. - Discharges to sewer system by persons or governments residing outside the ~~county~~ City.**

No persons or governments residing or operating outside the limits of the ~~county~~ City shall discharge or cause to be discharged any material into the ~~sanitary~~ public sewer system of the ~~county~~ without the prior approval of the ~~board of commissioners~~ sewer system provider.

~~(Code 1976, § 6-2017)~~

~~Secs. 25-283 — 25-300~~ 25-357 — 25-375. - Reserved.

**DIVISION 78. - PHOSPHORUS CONTROL**

**Footnotes:**

~~—(6)—~~

~~Editor's note — Ordinance No. 89-21, adopted May 23, 1989, did not specifically amend this Code; hence, inclusion of § 1 as Art. IV, Div. 7, §§ 25-301 — 25-306, was at the discretion of the editor.~~

**Sec. 25-30176. - Declaration of policy.**

O.C.G.A: section 12-5-27.1 provides that whenever a local government entity is required by the environmental protection division to reduce phosphorus in its wastewater being discharged into the waters of the state, such local government entity shall pass an ordinance mandating the retail sale of low phosphorus household laundry detergent as part of its phosphorus reduction process. It is hereby declared to be the public policy of the ~~county~~ City to encourage the use of clean phosphate-free household laundry detergents and to prohibit the sale of household laundry detergents which contain more than five-tenths (0.5) percent phosphorus by weight. The ~~county~~ City finds that such use and sale will be a cost-effective way to reduce the amount of phosphorus in wastewater discharge so as to protect Georgia's rivers and lakes downstream; promote health, safety, and welfare; and prevent injury to human health, plant and animal life, and property. It is vital to the health, well-being, and welfare of present and future inhabitants of the ~~county~~ City that these sources be protected against contamination and pollution.

~~(Ord. No. 89-21, § 1, 5-23-89)~~



**Sec. 25-302377. - Definitions.**

~~The following definitions shall apply in the interpretations and enforcement of this division.~~ The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except when the context clearly indicates a different meaning.

(1) *Household laundry detergent.* A laundering cleaning compound in liquid, bar, spray, tablet, flake, powder, or other form used for domestic clothes-cleaning purposes. The term "household laundry detergent" shall not mean:

(1a) A dishwashing compound, household cleaner, metal cleaner, degreasing compound, commercial cleaner, industrial cleaner, or other substance that is intended to be used for nonlaundry cleaning purposes;

(2b) A detergent used in dairy, beverage, or food processing cleaning equipment;

(3c) A phosphorus acid product, including a sanitizer, brightener, acid cleaner, or metal conditioner;

(4d) A detergent used in hospitals, veterinary hospitals or clinics, or health care facilities or in agricultural production;

(5e) A detergent used by industry for metal cleaning or conditioning;

(6f) A detergent manufactured, stored, or distributed for use or sale outside of the state;

(7g) A detergent used in any laboratory, including a biological laboratory, research facility, chemical laboratory, and engineering laboratory; or

(8h) A detergent used in a commercial laundry that provides laundry services for hospitals, health care facilities, or veterinary hospitals.

(2) *Person.* The term "person" shall mean any person, firm, partnership or corporation.

(3) *Phosphorus.* The term "phosphorus" shall mean elemental phosphorus.

~~(Ord. No. 89-21, § 1, 5-23-89)~~

**Sec. 25-303378. - Sales prohibited.**

It shall be unlawful for any person to sell at the retail level a household laundry detergent which contains greater than five-tenths (0.5) percent phosphorus by weight and is intended to be used for domestic clothes-cleaning purposes.

~~(Ord. No. 89-21, § 1, 5-23-89)~~

**Sec. 25-304379. - Penalties for violation.**

Any person who violates any provision of this division shall be subject to a fine not to exceed the maximum fine allowed under this Code. Each sales transaction shall constitute a separate offense.

~~(Ord. No. 89-21, § 1, 5-23-89)~~

~~Sec. 25-305380. - Civil action.~~

~~In addition to the penalty provided in section 25-304379 above, the countyCity may maintain an action or proceeding in any court of competent jurisdiction to compel compliance with or restrain any violation of this division.~~

~~(Ord. No. 89-21, § 1, 5-23-89)~~

~~Sec. 25-306381. - Individual right to damages.~~

~~Nothing in this division shall be construed to abridge, limit or otherwise impair the right of any person to damages or other relief on account of injuries to persons or property arising out of a violation of this division and to maintain any action or other appropriate proceeding thereof.~~

~~(Ord. No. 89-21, § 1, 5-23-89)~~

~~Secs. 25-307—25-35925-382—25-400. - Reserved.~~

#### ARTICLE V. - STORMWATER UTILITY

~~Sec. 25-360401. - Findings.~~

~~The board of commissioners of DeKalb County, Georgia makes the following findings:~~

- ~~(a)~~
- ~~(b) The federal Clean Water Act, as amended by the Water Quality Act of 1987 (33 U.S.C. 1251 et seq.), and rules promulgated by the United States Environmental Protection Agency pursuant to the Act emphasizes the role of local governments in developing, implementing, conducting and funding stormwater programs which address water quality impacts of storm water runoff.~~
- ~~(c) Stormwater management services and facilities will assist the county in meeting the regulatory obligations imposed by its national pollutant discharge elimination system (NPDES) permit by reducing pollution and increasing water quality within the county.~~
- ~~(d) DeKalb County presently owns and operates stormwater management systems and facilities which have been developed over many years. The future usefulness of the existing stormwater systems owned and operated by the county, and of additions and~~

~~improvements thereto, rests on the ability of the county to effectively manage, protect, control, regulate, use, and enhance stormwater systems and facilities in DeKalb County in concert with the management of other water resources in the county. In order to do so, the county must have adequate and stable funding for its stormwater management program's operating needs and capital.~~

- ~~(e) Stormwater management services and facilities are needed throughout the unincorporated areas of DeKalb County because most of those areas are developed. While specific service and facility demands may differ from area to area at any given point in time, a stormwater management service area encompassing all lands and water bodies within the unincorporated area of DeKalb County is consistent with the present and future needs of the community.~~
- ~~(f) The provision of stormwater management services and facilities in DeKalb County promotes an essential regulatory purpose by controlling where stormwater runoff flows and how it is disposed, and thereby reducing flooding, erosion and water pollution caused by stormwater runoff.~~
- ~~(g) Stormwater management services and facilities will provide a specific service to property owners by assisting in the property owner's legal obligation to control stormwater runoff from their property and ensure that runoff does not flow upon their neighbors in greater quantities than it would if the property were in an undeveloped state. By mitigating the impact of stormwater runoff from developed property, the stormwater management system helps prevent damage that would subject a property owner to civil liability.~~
- ~~(h) The board of commissioners is responsible for the protection and preservation of the public health, safety, and welfare of the community, and finds that it is in the best interest of the health, safety, and welfare of the citizens of the county and the community at large to proceed with the development, implementation, and operation of a utility for stormwater management accounted for in the county budget as a separate enterprise fund dedicated solely to stormwater management and to institute funding methods associated therewith.~~
- ~~(i) The county has undertaken a comprehensive review by staff and professional consultants of the need for, management of, and funding for, a stormwater utility. The county staff reports and the professional engineering and financing feasibility analysis submitted to the county properly assess and define the stormwater management problems, needs, goals, program priorities and funding opportunities of the county.~~
- ~~(j) As a result, the county's governing authority finds that a stormwater utility provides the most practical and appropriate means of properly delivering storm water management services and facilities, and the county's governing authority finds that a utility fee provides the most practical and appropriate means of funding stormwater management services in DeKalb County.~~

The governing authority of the City makes the following findings of fact:

- (a) The City is authorized by the supplementary powers provisions of Ga. Const. art. IX, § II, ¶ III(a)(6) to provide a stormwater collection and disposal system within its municipal limits.
- ~~(b)~~ The Federal Clean Water Act, as amended by the Water Quality Act of 1987 (33 USC 1251 et seq.), and rules promulgated by the United States Environmental Protection Agency pursuant to the Act emphasizes the role of local governments in developing, implementing, conducting and funding stormwater programs which address water quality impacts of stormwater runoff.
- ~~(c)~~ Given the project cost of stormwater management programs, systems and facilities identified in the professional engineering and financial analyses performed by DeKalb County and obtained by the City, it is appropriate to adopt a stormwater service fee rate methodology and to charge service fees to properties and persons within the City in a manner that recovers the cost of programs, systems and facilities and other costs associated therewith, including but not limited to allocations of the cost of services provided to the stormwater management utility by other funds of the City and other government entities and agencies, interest on bonds, operational and emergency reserves, allowances for delinquencies and bad debt, and such other costs as may be deemed reasonable and appropriate by the governing authority of the City to ensure the management, maintenance, protection, control, regulation, use and enhancement of stormwater programs, systems and facilities in the City.
- ~~(d)~~ The stormwater conditions reflected in the study conducted by the county and obtained by the city reflect the current conditions of the stormwater system in the City.
- ~~(e)~~ Stormwater management is applicable and needed throughout the City. Stormwater service fee rate methodology and service fees should be applicable throughout the City to enable the City to successfully manage operate and improve stormwater programs, systems and facilities at an advanced level. Service fees will also assist the City in meeting the regulatory obligations imposed by its National Pollutant Discharge Elimination System (NPDES) permits by reducing pollution and increasing water quality within the city.
- ~~(f)~~ The stormwater needs in the City include but are not limited to protecting the public health, safety and welfare. Funding of stormwater programs, systems and facilities is therefore incidental to the fundamental regulatory function of the City in protecting the public health, safety and welfare.
- ~~(g)~~ Provision of stormwater management programs, systems and facilities renders and/or results in both services and benefits to individual properties, property owners, citizens and residents of the City and to all properties, property owners, citizens and residents of the city concurrently in a variety of ways as identified in the professional engineering and financial analyses, and the services and benefits differ among the individual properties, property owners, citizens and residents in relation to the demands they impose individually and collectively on the stormwater systems and facilities.

- (g)(h) The services and benefits rendered or resulting from the provision of stormwater management programs, systems and facilities may differ over time depending on many factors and considerations, including but not limited to location, demands and impacts imposed on the stormwater systems and facilities, and risk exposure. It is not practical to allocate the cost of the City's stormwater management programs, systems and facilities in direct relationship to the services or benefits rendered to or received by individual properties or persons over a brief span of time, but it is both practical and equitable to allocate the cost of stormwater management among properties and persons in proportion to the long-term demands they impose on the city's stormwater programs, systems and facilities which render or result in services and benefits.
- (i) The City presently owns and operates stormwater management systems and facilities which have been developed, installed and acquired through various mechanisms over many years. The future usefulness of the existing stormwater systems owned and operated by the city, and of additions and improvements thereto, rests on the ability of the City to effectively manage, protect, control, regulate, use, and enhance stormwater systems and facilities in the City. In order to do so, the City must have adequate and stable funding for its stormwater management program operating and capital investment needs.

(Ord. No. 40-02, Pt. I, 12-10-02; Ord. No. 32-03, Pt. I, 12-23-03)

**Sec. 25-361402. - Definitions.**

The following definitions shall apply to this article. Any word or phrase not defined below but otherwise defined in the Code of Ordinances shall be given that meaning. All other words or phrases shall be given their common ordinary meaning unless the context clearly requires otherwise.

- (1) *Channel protection* shall have the same meaning as the term is defined in the Georgia Stormwater Manual, Volume 2, as amended hereafter.
- (2) *Credit* shall mean a conditional reduction in the amount of a stormwater service charge to an individual property based upon the terms and conditions of this article.
- (3) *Customer* shall mean all persons, properties, and entities served by the utility's acquisition, management, maintenance, extension, and improvement of the public storm water management systems and facilities and regulation of public and private stormwater systems, facilities, and activities related thereto, and persons, properties, and entities which will ultimately be served or benefited as a result of the stormwater management program.
- (4) *Developed land* shall mean all property not deemed as undeveloped land.
- (5) *Direct lien* shall mean a lien enforced against an individual or property prior to obtaining a judgment against the individual or property, such as liens established by operation of law for unpaid taxes.
- (6) *Equivalent residential unit (ERU)* shall mean the unit of measure which provides the basis for comparing the runoff generated by one parcel with that generated by another. An ERU shall be the median impervious coverage of a statistical sampling of single detached dwelling

- lots in ~~DeKalb County~~the City, which has been determined to be three thousand (3,000) square feet of impervious area.
- (7) *Impervious surfaces* shall mean those areas, which prevent or impede the infiltration of stormwater into the soil as it entered in natural conditions prior to development. Common impervious surfaces include, but are not limited to, rooftops, sidewalks, walkways, patio areas, driveways, parking lots, storage areas, compacted gravel and soil surfaces, awnings and other fabric or plastic coverings.
  - (8) *Multiple dwelling lot* shall mean a developed lot where on more than one (1) attached or detached residential dwelling units are located. Multiple dwelling lots include, but are not limited to, apartments, condominiums, duplexes and triplexes.
  - (9) *Other developed land* shall mean, but shall not be limited to, commercial and office buildings, industrial and manufacturing buildings, storage buildings and storage areas covered with impervious surfaces, parking lots, parks, recreation properties, public and private schools and universities, research stations, hospitals and convalescent centers, airports, and agricultural uses covered by impervious surfaces.
  - (10) *Overbank flood protection* shall have the same meaning as the term is defined in the Georgia Stormwater Manual, Volume 2, as amended hereafter.
  - (11) *Service fees* shall mean the stormwater management service fees applicable to a parcel of developed land, which charge shall be used only for the purpose of funding the ~~DeKalb County~~City's stormwater utility's cost of providing stormwater management services and facilities.
  - (12) *Single dwelling lot* shall mean a developed lot containing one (1) dwelling structure with its principal use being a residential dwelling. Single dwelling lots include, but are not limited to, single family homes and town homes characterized by fee simple ownership of both land and improved structures.
  - (13) *Stormwater management system* means any one (1) or more of the various devices used in the collection, treatment, or disposition of storm, flood or surface drainage waters, including all manmade structures or natural watercourse for the conveyance or transportation of runoff, such as: detention areas, berms, swales, improved watercourses, open channels, bridges, gulches, streams, gullies, flumes, culverts, gutters, pumping stations, pipes, ditches, siphons, catch basins and street facilities; all inlets; collection, drainage or disposal lines; intercepting sewers; disposal plants; outfall sewers; all pumping, power, and other equipment and appurtenances; all extension, improvements, remodeling, additions, and alterations thereof; and any and all rights or interests in such stormwater facilities. Stormwater facilities expressly excludes any of the foregoing which exist for, or are used exclusively for the purpose of collection, treating, measuring, supplying, or distributing potable water within or as part of the county water supply and treatment system, or any of the foregoing which exist for or are used exclusively for the purpose of collecting, treating, or measuring effluent within or as part of the county sanitary sewer system.
  - (14) *Undeveloped land* shall mean a lot in its unaltered natural state and which has no pavement, asphalt, or compacted gravel surfaces or structures which create an impervious surface that would prevent infiltration of stormwater or cause stormwater to collect, concentrate, or flow in a manner materially different than that which would occur if the land was in an unaltered natural state.

- (15) *Water quality* shall have the same meaning as the term is defined in the Georgia Stormwater Manual, Volume 2, as amended hereafter.

~~(Ord. No. 40-02, Pt. I, 12-10-02; Ord. No. 32-03, Pt. I, 12-23-03)~~

**Sec. 25-362403. - Establishment of a utility.**

- (a) There is hereby established a stormwater utility ~~within the public works department~~ which shall be responsible for stormwater management throughout the ~~county~~City's jurisdictional limits, and shall provide for the management, protection, control, regulation, use, and enhancement of stormwater systems and facilities. The stormwater utility management unit shall be composed of such personnel, employees and agents of the City as the governing authority of the City may from time to time determine and the compensation of such personnel, employees and agents shall be fixed and determined by the city manager as approved by the governing authority.
- (b) The governing authority of ~~DeKalb County~~the City confers upon the stormwater utility hereby transfers to the stormwater utility operational control over the existing stormwater management programs, systems and facilities performed, provided or owned and heretofore operated by the countyCity and other related assets, including but not limited to properties upon which such facilities are located, easements, rights-of-entry and access, and certain equipment used solely for stormwater management.

~~(Ord. No. 40-02, Pt. I, 12-10-02)~~

**Sec. 25-363404. - Scope of responsibility for the stormwater utility.**

- (a) ~~The stormwater utility shall monitor the design, operation, maintenance, inspection, construction, and use of all stormwater systems in the county. The stormwater utility shall be responsible for the design and construction of public stormwater facilities owned by the county and shall inspect, operate, and maintain them as prescribed herein. The stormwater utility shall be responsible for plan approval and construction inspection of both private stormwater facilities and public stormwater facilities not owned by the county located within the City. Additionally, the stormwater utility may accept the responsibility for the operation and maintenance of private stormwater facilities only when such services have been agreed to, contracted for, and approved by the governing authority of the county. The stormwater utility shall be responsible for the design and construction of public stormwater facilities owned by the City and shall, inspect, operate and maintain such facilities as described herein.~~
- (b) The city drainage system consists of all rivers, streams, creeks, branches, lakes, reservoirs, ponds, drainageways, channels, ditches, swales, storm sewers, culverts, inlets, catch basins, pipes, head walls and other structures, natural or manmade, within the political boundaries of the City which control and/or convey stormwater through which the City intentionally diverts surface waters from its public streets and properties. The City owns or has legal

access for purposes of operation, maintenance and improvement of those stormwater systems and facilities which:

(1) Are located within public streets, rights-of-way and easements;

(2) Are subject to easements, rights-of-entry, rights-of-access, rights-of-use or other permanent provisions for adequate access for operation, maintenance and/or improvement of systems and facilities;

(3) Are located on public lands to which the City has adequate access for operation, maintenance and/or improvement of systems and facilities; or

(4) Are determined by the city attorney to be the City's responsibility.

~~(b)~~(c) The stormwater utility shall provide for inspection of private facilities to ascertain that the stormwater facilities are functioning as designed and approved. The stormwater utility shall provide for remedial maintenance of facilities based upon the severity of stormwater problems and potential hazard to the public health, safety, and welfare, and in cases where such remedial maintenance is required the countyCity may bill the owner of the private facility for the costs of such maintenance.

~~(Ord. No. 40-02, Pt. I, 12-10-02; Ord. No. 32-03, Pt. I, 12-23-03)~~

**Sec. 25-364405. - Establishment of enterprise fund.**

(a) ~~The chief executive officer~~City or the sewer system provider shall establish a stormwater enterprise fund in the ~~county~~applicable budget and accounting system for the purpose of dedicating and protecting all funding applicable to the purposes and responsibilities of the utility, including but not limited to rentals, rates, charges, fees, and licenses as may be established from time to time by the ~~board of commissioners~~applicable governing authorityCity Council.

(b) Except as provided pursuant to ~~section 24-364~~subsection (c), any revenues and receipts of the stormwater utility shall be placed in the stormwater enterprise fund and all expenses of the utility shall be paid from the stormwater enterprise fund, except that other revenues, receipts, and resources not in the stormwater utility enterprise fund may be applied to stormwater management operations and capital investments as deemed appropriate by the ~~board of commissioners, upon recommendation of the chief executive officer~~applicable governing authorityMayor and City Council.

(c) ~~The county~~City or the sewer system provider may pledge all or any portion of all income and revenue of any nature derived from the operation of the stormwater management systems and facilities ~~owned by the county~~, including periodic stormwater service charges and other charges for stormwater service, to the payment of principal of premium, if any, and interest on any revenue bonds or other obligations, ~~lawfully issued or otherwise contracted for by the county as may be provided in any resolution authorizing such bonds or obligations or in any trust instrument relating to such bonds or obligations.~~

~~(Ord. No. 40-02, Pt. I, 12-10-02)~~



**Sec. 25-365406. - Stormwater service fees established.**

- (a) ~~In order to recover the cost of providing stormwater services and facilities while fairly and reasonably apportioning the costs among developed properties throughout the unincorporated portion of the county based on the use of stormwater services and facilities, the following stormwater rates shall apply:~~
- (b) ~~The stormwater service charge per equivalent residential unit shall be four dollars (\$4.00) per month or as amended by official action of the governing authority.~~
- (c) ~~All single detached dwelling lots shall be charged the rate applicable to one (1) equivalent residential unit.~~
- (d) ~~All multiple dwelling lots shall be charged the rate applicable to one (1) equivalent residential unit times the number of dwelling units located on the multiple dwelling unit property times an adjustment factor that adjust the ERU to equal the median impervious coverage of a statistical sampling of a single dwelling unit within a multiple dwelling lot in DeKalb County, which has been determined to be 0.5.~~
- (e) ~~All other developed lands shall be billed for one (1) equivalent residential unit for each three thousand (3000) square feet of impervious surface or increment thereof on the property, rounded to the next highest tenth of an equivalent residential unit.~~

Stormwater service fee rates may be determined and modified from time to time by the mayor and city council so that total revenue generated by said fees and any other sources of revenues or other resources allocated to stormwater management shall be sufficient to meet the cost of stormwater management programs, systems and facilities, including but not limited to the payment of principal and interest on debt obligations, operating expense, capital outlays, nonoperating expense, provisions for prudent reserves and other costs as deemed appropriate. Stormwater service fee revenues in any given year may exceed or be less than the cost of service in that year, provided, however, that the stormwater service fee rate shall be based on meeting the long-term projected cost of stormwater management programs, systems and facilities. All unencumbered stormwater management funds derived from service fees and other sources of revenue not expended at the end of a fiscal year shall remain in the stormwater management utility enterprise fund account and balances shall be forwarded to the next fiscal year.

~~(Ord. No. 40-02, Pt. I, 12-10-02; Ord. No. 32-03, Pt. I, 12-23-03)~~

~~Sec. 25-366. — Effective date of stormwater service charges and termination of pond fees and other stormwater related fees in force prior to effective date.~~

~~The stormwater service fee shall accrue beginning January 1, 2004, and shall be billed annually thereafter.~~

~~(Ord. No. 40-02, Pt. I, 12-10-02; Ord. No. 10-03, Pt. I, 5-27-03)~~

~~Sec. 25-367. — Elimination of pond maintenance fees.~~

~~Beginning January 1, 2004, all fees collected for pond maintenance are hereby eliminated.~~

~~(Ord. No. 40-02, Pt. I, 12-10-02; Ord. No. 10-03, Pt. I, 5-27-03) Sec. 25-368407. - Exemptions.~~

The following properties are exempt from stormwater utility fees:

- (1) Undeveloped land;
- (2) All public rights-of-way; and
- (3) Railroad rights-of-way (tracks). However, railroad stations, maintenance buildings, or other developed land used for railroad purposes shall not be exempt from stormwater service charges.
- (4) Any property whereby one hundred (100) percent of the stormwater runoff is contained on the premises and no runoff enters into the stormwater management system.

~~(Ord. No. 40-02, Pt. I, 12-10-02)~~

~~Sec. 25-369408. - Credits.~~

~~Credits to the stormwater service fee may be determined and modified from time to time by the mayor and council. Credits are available based on the following:~~

- ~~(a) Property owners of developed land may receive a stormwater service charge credit for on-site systems or facilities. Stormwater service charge credits shall be determined based on the technical requirements design and performance standards contained in the Georgia Stormwater Management Manual as may be updated or amended from time to time. Stormwater service charge credits may total up to forty (40) percent of the service charge applicable to a property, and shall be granted upon a showing of any of the following:~~
  - ~~(1) Ten (10) percent credit for on-site systems or facilities sized and functioning to meet water quality standards in accordance with the DeKalb County Code and the Georgia Stormwater Management Manual as may be updated or amended from time to time.~~
  - ~~(2) Ten (10) percent credit for on-site systems or facilities properly sized and functioning to meet the channel protection standards in accordance with the DeKalb County Code and the Georgia Stormwater Management Manual as may be updated or amended from time to time.~~
  - ~~(3) Ten (10) percent credit for on-site systems or facilities sized and functioning to meet the overbank flood protection standards in accordance with the DeKalb County Code and the Georgia Stormwater Management Manual as may be updated or amended from time to time.~~
  - ~~(4) Ten (10) percent credit for on-site systems or facilities sized and functioning to meet the extreme flood protection standards in accordance with the DeKalb County Code and the Georgia Stormwater Management Manual as may be updated or amended from time to time.~~
- ~~(b) Property owners seeking service charge credits must apply for stormwater service charge credits through completion and submittal to the CountyCity of a stormwater service charge~~

credit application prior to January 1st of the year in which stormwater service charges are to be billed by the ~~county~~City (except for 2004, in which applications must be received by March 1, 2004). Credits will only be granted through applications approved by the ~~county~~City for the remainder of the year in which stormwater service charges are to be billed by the ~~county~~. Any credits issued by DeKalb County in 2018 or any application received by DeKalb County before January 1, 2019, are hereby accepted as valid credits and applications for the City for the 2019 calendar year.

- (c) Upon receipt of a timely filed completed application, the ~~chief executive officer~~city manager or his designee shall review the application and make a determination as to whether the applicable criteria for a credit has been met. All decisions regarding the approval or disapproval of a stormwater credit shall be made within forty-five (45) days of the date the completed application was submitted to the county.
- (d) Any credit allowed against the service charge is conditioned on:
- (1) ~~e~~Continuing compliance with the ~~county~~City's design and performance standards as stated in the Georgia Stormwater Management Manual as may be updated or amended from time to time; and
  - (2) ~~u~~Upon continuing provision of the systems or facilities provided, operated, and maintained by the property owner or owners upon which the credit is based.

The ~~county~~City may revoke any credit at any time for non-compliance with this article.

~~(Ord. No. 40-02, Pt. I, 12-10-02; Ord. No. 32-03, Pt. I, 12-23-03)~~

**Sec. 25-370409. - Inspection of private facilities.**

Continuing compliance with the ~~county~~City's design and performance standards may be verified by ~~county~~inspection of the systems or facilities upon which the credit is based. No credit shall be given under this article unless the property owner agrees in writing in its application that the ~~county~~City shall have the right for its designated officers, representatives, agents, and employees to enter upon private and public property, upon reasonable notice to the owner of such property, to inspect the property and conduct surveys and engineering testing on such property in order to assure compliance with the ~~county~~City's design and performance standards. On-site systems or facilities determined to no longer comply with the ~~county~~City's design and performance standards shall subject the property owner to revocation of all, or a portion of, stormwater service charge credits based on the ~~county~~City inspections' estimate of capacity reduction for a period of not less than one (1) year.

~~(Ord. No. 40-02, Pt. I, 12-10-02; Ord. No. 32-03, Pt. I, 12-23-03)~~

**Sec. 25-371410. - Stormwater service charge, billing, delinquencies and collections.**

- (a) The stormwater utility service charge may be billed separately, or on a customer statement and collected along with other fees for services, at the ~~county's~~sole discretion of the City or its designee, provided that in no instance shall the service charge constitute a direct lien

against the property. Unpaid stormwater service fees shall be collected by filing suit to collect on an unpaid account and by using all methods allowed by Georgia law to collect on any judgment obtained thereby.

- (b) A stormwater utility service charge bill may be sent through the United States mail or by alternative means notifying the customer of the amount of the bill, the date the payment is due, and the date when past due. Failure to receive a bill is not justification for non-payment. Regardless of the party to whom the bill is initially directed, the owner of each parcel of developed land shall be ultimately obligated to pay such fee. If a customer is underbilled or if no bill is sent for developed land, the county may backbill for a period of up to one year, but shall not assess penalties for any delinquency due to the failure to send a bill or an under billing. A one (1) percent per month late charge shall be assessed against the owner for the unpaid balance of any stormwater utility service charge that becomes delinquent.

(Ord. No. 40-02, Pt. I, 12-10-02; Ord. No. 32-03, Pt. I, 12-23-03)

**Sec. 25-372411. - Stormwater utility service inspections and enforcement.**

Every owner of real property located in the ~~unincorporated area of the county~~ City, and every person who serves as a contractor or developer for the purpose of developing real property located in the ~~unincorporated area of DeKalb County~~ municipal limits of the City shall provide, manage, maintain, and operate on-site stormwater management systems and facilities sufficient to collect, convey, detain, control and discharge stormwater in a safe manner consistent with all ~~DeKalb County ordinances and development regulations of the City~~, and the laws of the State of Georgia and the United States of America. Any failure to meet this obligation shall constitute a nuisance and be subject to an abatement action filed by any damaged party or ~~DeKalb County~~ the City in any court of competent jurisdiction. In the event a public nuisance is found by the court to exist, which the owner fails to properly abate within such reasonable time as allowed by the court, the ~~county~~ City may enter upon the property and cause such work as is reasonably necessary to abate the nuisance with the actual cost thereof assessed against the owner or developer, if any, on a joint and several basis. From the date of the filing of such action, the ~~county~~ City shall have lien rights, which may be perfected, after judgment, by filing a notice of lien on the General Execution Docket of the Superior Court of DeKalb County. ~~DeKalb County~~ The City shall have the right, pursuant to the authority of this article, for its designated officers and employees to enter upon private and public property owned by entities other than the ~~county~~ City, upon reasonable notice to the owner thereof, to inspect the property and conduct surveys and engineering tests thereon in order to assure compliance with this section.

(Ord. No. 40-02, Pt. I, 12-10-02; Ord. No. 32-03, Pt. I, 12-23-03)

**Sec. 25-373412. - Appeals.**

- (a) Any customer who believes the provisions of this article have been applied in error may appeal in the following manner:

STATE OF GEORGIA  
DEKALB COUNTY  
CITY OF STONECREST

ORDINANCE NO. \_\_\_\_\_

- (1) An appeal must be filed in writing with the ~~chief executive officer~~city manager or designee within thirty (30) days of the decision that is appealed. In the case of service charge appeals, the appeal shall include a survey prepared by a registered land surveyor or professional engineer containing information on the total property area, the impervious surface area, and any other features or conditions which influence the hydrologic response of the property to rainfall events.
  - (2) The ~~chief executive officer~~city manager or his designee shall conduct a technical review of the conditions on the property and respond to the appeal in writing within ~~thirty (30)~~sixty (60) days.
  - (3) In response to an appeal the chief executive officer or his designee may adjust the stormwater service charge applicable to a property in conformance with the general purpose and intent of this article.
  - (4) All decisions ~~by the chief executive officer~~rendered by the city manager or his designee pursuant to this section shall be final.
- (b) The appeal process contained in this section shall be a condition precedent to an aggrieved customer seeking judicial relief. Any decision of the ~~chief executive officer~~city manager or his designee may be appealed by application for writ of certiorari in the Superior Court of DeKalb County, filed within thirty (30) days of the date of service of the decision of the ~~chief executive officer~~City Manager.

(Ord. No. 40-02, Pt. I, 12-10-02)

~~Sec. 25-374. Effective date.~~

~~Article V of Chapter 25 of this Code shall become effective on January 1, 2004.~~

(Ord. No. 10-03, Pt. I, 5-27-03)



**CITY COUNCIL AGENDA ITEM**

**SUBJECT: Amended and Restated Resolution Authorizing the Establishment of the SPLOST Citizens Oversight Advisory Committee of the City of Stonecrest and Appointing the Initial Members**

- ORDINANCE                       POLICY                                       STATUS REPORT  
 DISCUSSION ONLY               RESOLUTION                                       OTHER

**Work Session: 11/07/2018**

**Council Meeting: 11/19/2018**

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**SUBMITTED BY: Council Members Rob Turner and Georgia Turner**

**PURPOSE:** This Resolution is the amend and restate the previous Resolution to establish a citizen oversight advisory committee for SPLOST in the City of Stonecrest and to appoint the initial members.

**HISTORY:**

**FACTS AND ISSUES:**

**OPTIONS:**

**RECOMMENDED ACTION: Recommendation of Council**

**AMENDED AND RESTATED RESOLUTION AUTHORIZING THE  
ESTABLISHMENT OF THE SPLOST CITIZENS OVERSIGHT ADVISORY  
COMMITTEE OF THE CITY OF STONECREST, GEORGIA AND APPOINTING THE  
MEMBERS**

**WHEREAS,** the City of Stonecrest was created by Senate Bill 208, passed in the Georgia General Assembly during the 2016 Session and subsequently confirmed by referendum;

**WHEREAS,** Senate Bill 208 provided a charter for the City of Stonecrest (the "City Charter");

**WHEREAS,** Section 1.03(b)(42) of the City Charter grants the City the power to exercise and enjoy all other powers, functions and rights necessary or desirable to promote the general welfare of the City and its inhabitants;

**WHEREAS,** Section 2-137 of Chapter 2 of the Code of the City of Stonecrest, Georgia, provides that the Mayor may establish advisory committees;

**WHEREAS,** the citizens of DeKalb County voted on November 7, 2017, to impose a Special Purpose Local Option Sales Tax (SPLOST) to be spent on capital improvements for the use and benefit of DeKalb County and qualified municipalities within the DeKalb County;

**WHEREAS,** the Mayor and City Council of the City of Stonecrest have determined that it is in the best interest of the City and its citizens to establish an advisory committee known as the SPLOST Citizens Oversight Advisory Committee of the City of Stonecrest, Georgia, for the purpose of providing transparency and accountability to the citizens of the City of Stonecrest concerning the use of SPLOST funds; and

**WHEREAS,** *the citizens of Stonecrest are entitled to transparency and a full accounting of all expenditures related to SPLOST funds, free and clear of any government influence, interference or biases; and*

**WHEREAS,** the Mayor and City Council passed Resolution 2018-\_\_\_\_\_ on October 15, 2018 Authorizing the Establishment of the SPLOST Citizens Oversight Advisory Committee and appointing the initial members of the Committee;

**WHEREAS,** *the Mayor and Council desire to amend the SPLOST Citizens Oversight Committee as contained herein.*

**NOW, THEREFORE, BE IT RESOLVED** by the Mayor and Council of the City of Stonecrest, Georgia, as follows:

**SECTION I.  
ESTABLISHMENT OF THE CITIZENS SPLOST OVERSIGHT ADVISORY  
COMMITTEE AND AUTHORIZATION**

1. The Mayor and City Council of the City of Stonecrest affirm that the Special Purpose Local Option Sales Tax is the City's opportunity to affect substantive improvements that connect our citizens and starts to transform our City into one defined by the collective pursuit of a high quality of life for all residence. To further help accomplish this vision, there is hereby established the SPLOST Citizens Oversight Advisory Committee of the City of Stonecrest, Georgia (hereinafter referred to as the "SPLOST Committee").

**SECTION II.  
MISSION AND DUTIES**

1. The mission of the SPLOST Committee is to provide transparency and accountability to the citizens of the City of Stonecrest from the 2017 SPLOST.
2. The purpose of the SPLOST Committee is to ensure:
  - a. That revenue collected under the SPLOST is spent in accordance with SPLOST law;
  - b. That funds from the SPLOST are well managed and used efficiently;
  - c. That projects funded by the Stonecrest portion of the SPLOST are equitable, appropriately prioritized, and well distributed throughout the City;
  - d. To provide as necessary and appropriate advice, reviews, reports and recommendations to the public, City Manager, Mayor and City Council on SPLOST spending, budgets, projects and legislation.
3. The SPLOST Committee shall operate independently, free and clear of any government influences and is limited in scope to serve in an advisory and review capacity.
4. The SPLOST Committee is not a legal entity of the city and shall not operate as such. Thus, it is responsible for creating its own operating process and procedure within the scope as provided and following the latest edition of Roberts Rules of Order.

**SECTION III.  
MEMBERSHIP**

1. The SPLOST Citizen Oversight Committee shall be composed of seven (7) members, two of whom shall be appointed by the Mayor, and one member shall be appointed by each Council member.
2. Members of the SPLOST Committee shall be residents of the city of Stonecrest and be of voting age. If the member move out of the city, he/she shall make notification to that elected official that appointed him or her for immediate replacement.
3. No member shall hold elective office and upon qualifying to run for elective office, the member shall automatically resign from the Committee.



4. Members must attend two-thirds (2/3) of the SPLOST Committee meetings in a calendar year. Failure to do so warrants removal from the SPLOST Committee, and immediate replacement in by the respective elected official.

**SECTION IV.  
TERMS**

1. Each member shall serve for a term of four (4) years.
2. 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 or a consecutive appointment is made by the respective elected official.
3. Vacancies shall be filled in the same manner as appointments was made. A member may be removed from the Committee in writing by the elected officials who made the appointment, with a copy of the removal letter being transmitted to the Clerk of the City Council for recording.

**SECTION V.  
COMPENSATION**

The SPLOST Citizen Oversight Committee is an unpaid committee. No member of the SPLOST Citizen Oversight Committee shall receive compensation or reimbursement for service.

**SECTION VI.  
QUORUM**

1. A majority of the actual number of SPLOST Committee members establishes a quorum. Any action taken requires a majority of affirmative votes of the required quorum.
2. Members must attend two-thirds (2/3) of the SPLOST Committee meetings in a calendar year. Failure to do so warrants removal from the SPLOST Committee.

**SECTION VII.  
GOVERNANCE**

1. The committee will operate free and clear of any government official or staff influence, interference or bias.
2. The city of Stonecrest staff's role shall be limited to providing to the committee all necessary information to successfully perform its work and assist with arranging meeting space.
3. The City Manager or his designee shall attend all SPLOST Committee meeting to assist, where reasonable and necessary, and without undue influence, interference or bias.
4. The SPLOST Committee shall adopt its rules of procedure, and shall operate within the latest edition of Roberts Rules of Order.
5. The SPLOST Committee shall set its own meeting schedule and establish the meeting agendas.
6. The date and time of each meeting as well as agenda items to be considered shall be publicized on the city's website and posted by the city's Clerk at least one week in advance of all meetings. The Mayor, the Council, the city staff and all members of the Committee shall receive notice of all meetings one week in advance of meeting.
7. At each meeting, the public shall be granted time for public comment.
8. All meetings shall be open to the public and all records maintained by the SPLOST Committee shall be public records unless expressly exempted by a provision of the State's Open Records Act.
9. All meetings shall be subjected to State's Open Meeting laws. Close door meetings are prohibited. Meeting shall only be held at a location determined by a majority vote of the members of the committee.
10. The SPLOST Committee shall elect a chairman to conduct meetings and a vice chairman to conduct meetings in the absence of the chairman. Elections shall be held at the first regular meeting of the calendar year. The chairman shall serve for one (1) year or until re-elected or a successor is elected. The vice chairman shall serve for one (1) year or until re-elected or a successor is elected. The SPLOST Committee shall select one of its members to be the secretary.
11. The SPLOST Committee shall keep minutes of its proceedings, showing the vote of each member upon each question, and records of its 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 City Council.

12. All work of the Committee, to include but not be limited to minutes and video recording of meetings, shall be posted on the City's SPLOST web page for full view to the public.

13. The SPLOST Committee will report either in person or in writing to the Mayor and City Council shall report, as necessary, either in person or in writing to the Mayor and Council on a monthly basis either in writing or verbally. An annual report is required at the end of each year, effective December 2019.

**SECTION VIII.  
APPOINTMENTS**

The Mayor and Council members shall submitted the name of their appointment (s) to the Clerk of the Council no later than December 1, 2018.

Appointments are effective February 1, 2019, and is subject to change if the city of Stonecrest has not completed the execution of its Intergovernmental Agreements (IGA's) for all SPLOST projects with DeKalb County government.

**SECTION X  
EFFECTIVE DATE**

The SPLOST Committee is established effective February 1, 2019, and shall hold its first meeting prior to February 28, 2019.

STATE OF GEORGIA  
COUNTY OF DEKALB  
CITY OF STONECREST

RESOLUTION 2018-\_\_\_\_\_

**SO RESOLVED AND EFFECTIVE** this the \_\_\_\_\_ day of \_\_\_\_\_, 2018.

Approved:

\_\_\_\_\_  
Jason Lary, Sr., Mayor

Attest:

\_\_\_\_\_  
Brenda James, City Clerk

STATE OF GEORGIA  
COUNTY OF DEKALB  
CITY OF STONECREST

RESOLUTION 2018-\_\_\_\_\_



**CITY COUNCIL AGENDA ITEM**

**SUBJECT: Appointment to Replace A Member to the Development Authority**

- ORDINANCE                       POLICY                       STATUS REPORT  
 DISCUSSION ONLY               RESOLUTION               OTHER

**Council Meeting: 11/19/2018**

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**SUBMITTED BY: Mayor Lary**

**PURPOSE:**

**HISTORY:**

**FACTS AND ISSUES:**

**OPTIONS:**

**RECOMMENDED ACTION: Recommendation of Council**