

CITY OF STONECREST, GEORGIA

Honorable Mayor Jason Lary, Sr.

Council Member Jimmy Clanton, Jr. – District 1

Council Member Rob Turner- District 2

Council Member Jazzmin Cobble – District 3

Council Member George Turner- District 4

Council Member Diane Adoma – District 5

CITY COUNCIL MEETING AGENDA

December 4, 2017

10:00 a.m.

Stonecrest City Hall

3120 Stonecrest Blvd.

Stonecrest, Georgia 30038

- I. **CALL TO ORDER:** Mayor Jason Lary
- II. **ROLL CALL:** Brenda B. James, Interim City Clerk
- III. **INVOCATION:**
- IV. **PLEDGE OF ALLEGIANCE:**
- V. **PUBLIC COMMENTS:**
- VI. **MINUTES:** Approval of Minutes of the Regular City Council Meeting of November 20, 2017
- VII. **ADOPTION OF THE CITY COUNCIL AGENDA:**
- VIII. **AGENDA ITEMS:**

Old Business:

- 1. Ordinance Adopting Article VII, Excise Tax on Rental Motor Vehicles of Chapter 24-Taxation- **Adoption of the Ordinance**
- 2. Resolution by the City of Stonecrest Authorizing the Submittal of Charter Amendments to the Dekalb Local Delegation

New Business:

3. An Ordinance Adopting Article IV, Depository Financial Institutions Business License Tax of Chapter 24, Taxation. **First Read Only**
4. An Ordinance Granting Franchise Fees to Georgia Power by the City of Stonecrest – **First Read Only**

IX. CITY MANAGER COMMENTS:

X. CITY ATTORNEY COMMENTS:

XI. MAYOR AND COUNCIL COMMENTS:

XII. ADJOURNMENT:

XIII. 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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Council Member Diane Adoma – District 5

CITY COUNCIL MEETING MINUTES

November 20, 2017

10:00 a.m.

Stonecrest Library

3123 Klondike Road, Lithonia, Georgia

- I. **CALL TO ORDER:** Mayor Jason Lary
- II. **ROLL CALL:** All Members were present
- III. **INVOCATION:** Council Member Rob Turner
- IV. **PLEDGE OF ALLEGIANCE:**
- V. **PUBLIC COMMENTS:**
 1. Perry Whaley, spoke regarding a support group for a skin disease.
 2. Judas Hicks, spoke in opposition of the ordinance to amend the charter.
 3. Julian Beckford, spoke in opposition to changes in the charter.
 4. Denise Hayes, spoke on support for vendors who are Stonecrest citizens.
 5. Dave Marcus, spoke against charter changes and veto power.
 6. Faye Coffield, spoke against charter changes and other issues in the City.
 7. Verna Richelieu, spoke in opposition of veto power for the Mayor and other charter changes.
 8. Michelle Emanuel, spoke in favor of the charter changes and the initial charter.
 9. Joel Thibodeaux, spoke in favor of the charter changes and a fulltime Mayor.
 10. Major Sadler, said the change in the salary was not the problem, but there needed to be input from the citizens regarding the charter changes.
 11. Harold Smith, spoke against a fulltime Mayor, and changes to the charter.
 12. Darrell Taylor, spoke on the need for better communication in the City of Stonecrest.
 13. Bernard Knight, spoke in favor of the charter changes and fulltime Mayor.
 14. Barbara Lee, spoke in favor of a fulltime Mayor and agrees with the original charter which included some of the changes.

15. Shawn Jones, spoke in favor of the salary increase and changes to the charter.
16. Felesia Edwards, spoke against a fulltime Mayor and veto power.
17. Al Franklin, spoke on the tough decisions that need to be made in the City of Stonecrest.
18. Daniel Kelly, spoke in favor of all the charter changes.
19. Belinda Hull, spoke in favor of the Mayor and his vision.
20. Doris E. Johnson, spoke against the charter changes at this time.
21. Rhoberta Prosser, spoke against a fulltime Mayor.
22. Lucretia Ramsey, spoke against a charter change at this time.
23. Malaika Wells, spoke in favor of waiting and getting more public input.
24. Tim Lindley, spoke against any changes to the charter.
25. Elijah Hill, spoke on embracing the citizens for the future of Stonecrest.

VI. MINUTES: Approval of Minutes of the Regular City Council Meeting of November 6, 2017

Council Member George Turner said on item #6, please show which Turner spoke at the meeting and the misspelling of his name in the minutes.

Council Member Adoma made a motion to approve the minutes with the changes made by Council Member George Turner. Council Member Clanton provided the second. **The motion carried unanimously.**

VII. ADOPTION OF THE CITY COUNCIL AGENDA:

Council Member Rob Turner made a motion to adopt the agenda with Council Member Adoma providing the second. **The motion carried unanimously.**

VIII. PUBLIC HEARING:

1. Zoning Amendment Petition RZ-17-0001

Nicole Dozier made a presentation regarding the Zoning Amendment Petition RZ-17-0001 to the Mayor and Council.

Mayor Lary opened the Public Hearing:

In Favor:

Dave Marcus
Bernard Knight

Against:

No one spoke against.

Mayor Lary closed the Public Hearing.

Council Member Adoma made a motion to approve the Zoning Amendment Petition RZ-17-0001 with conditions. Council Member Clanton provided the second. **The motion carried unanimously.**

IX. AGENDA ITEMS:

Old Business:

2. An Ordinance to Amend Chapter 2 (Administration) to Declare the need for the creation of a Development Authority for the City of Stonecrest

Attorney Destine Washington gave a brief overview of the ordinance.

Council Member Adoma made a motion to adopt the Ordinance to amend Chapter 2 Administration to declare the need for the creation of a Development Authority for the City of Stonecrest.

Council Member Rob Turner left at 11:45am.

3. An Ordinance Adopting Chapter 9 (Municipal Court) of the City of Stonecrest

Attorney Destiny Washington gave a brief overview of the ordinance.

Council Member Clanton made a motion to adopt the Ordinance Adopting Chapter 9 (municipal Court) of the City of Stonecrest with Council Member Adoma providing the second. **The motion carried unanimously.**

4. An Ordinance to Adopt Article IV—Cable Television Franchises in Chapter 8

Attorney Destiny Washington and City Manager Michael Harris gave an overview of the ordinance and agreement.

Council Member Clanton made a motion to approve the Ordinance to Adopt Article IV Cable Television Franchises in Chapter 8 with the agreement starting in July 2017 with Council Member Adoma providing the second. **The motion carried unanimously.**

New Business:

5. Ratification of an Ordinance Adopting Chapter 24, Taxation, Article 1 to Adopt Insurance License Fees and Premium Tax Regulations

Council Member George Turner made a motion to ratify the Ordinance adopting Chapter 24, Taxation Article 1 for Insurance License Fees and Premium Tax Regulations. Council Member Adoma provided the second. **The motion carried unanimously.**

6. Ordinance Adopting Article VII, Excise Tax on Rental Motor Vehicles of Chapter 24-Taxation- **First Read Only.**

7. Acceptance of the Certification of Election Returns Results from Dekalb County for the November 7, 2017 Election

City Clerk, Brenda James gave a brief overview of the certification.

Council Member Adoma made a motion to accept Certification of the Election Results from Dekalb County with Council Member Clanton providing the second. **The motion carried unanimously.**

8. Resolution for the Official Holidays for 2018 for the City of Stonecrest

City Clerk, Brenda James explained the Official Holidays for 2018.

Council Member Adoma made a motion to approve the Resolution for the Official Holidays for 2018 with Council Member George Turner providing the second. **The motion Carried unanimously.**

9. Resolution by the City of Stonecrest Authorizing the Submittal of Charter Amendment to the Dekalb Local Delegation

City Attorney Tom Kurrie gave an overview of the resolution. After much discussion Council Member George Turner made a motion to defer this item until the meeting of December 4, 2018 with Council Member Adoma providing the second. **The motion carried unanimously.**

10. Ordinance to Amend the Charter of the City of Stonecrest

Council Member Adoma made a motion to issue a notice in the paper regarding the charter changes through Home Rule. Council Member Clanton provided the second. **The motion carried unanimously.**

11. Ordinance to Amend Chapter 4- Alcoholic Beverages to require Five Member Alcoholic Beverage Appeal Board

Council Member George Turner made a motion to adopt the Ordinance to amend Chapter 4- Alcoholic Beverages to require a five-member Alcoholic Beverage Appeal Board. Council Member Adoma provided the second. **The motion carried.**

X. CITY MANAGER COMMENTS:

XI. CITY ATTORNEY COMMENTS:

XII. MAYOR AND COUNCIL COMMENTS:

XIII. EXECUTIVE SESSION: Council Member George Turner made a motion to recess the meeting into Executive Session for a real estate matter with Council Member Adoma providing the second. **The motion carried unanimously.**

Council Member Clanton made a motion to close the Executive Session and return into the regular meeting with Council Member George Turner providing the second. **The motion carried unanimously.**

Council Member George Turner made a motion to adjourn the regular meeting with Council Member Adoma providing the second at 2:00p.m. **The motion carried unanimously.**



CITY COUNCIL AGENDA ITEM

SUBJECT: ORDINANCE ADOPTING ARTICLE VII, EXCISE TAX ON RENTAL MOTOR VEHICLES OF CHAPTER 24-TAXATION

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

Date Submitted: 11/13/2017 Work Session: 11/15/2017 Council Meeting: 12/04/2017

SUBMITTED BY: City Attorney

PURPOSE:

HISTORY:

FACTS AND ISSUES:

OPTIONS:

RECOMMENDED ACTION: Adoption of the Ordinance. First Read was on November 20, 2017

1 STATE OF GEORGIA
2 COUNTY OF DEKALB
3 CITY OF STONECREST

ORDINANCE 2017-_____

4
5 **AN ORDINANCE OF THE CITY OF STONECREST, GEORGIA, ADOPTING**
6 **ARTICLE VII, EXCISE TAX ON RENTAL MOTOR VEHICLES OF CHAPTER 24,**
7 **TAXATION, OF THE CODE OF ORDINANCES OF THE CITY OF STONECREST,**
8 **GEORGIA**
9

10 **WHEREAS**, the City of Stonecrest, Georgia Mayor and City Council are authorized by Section
11 1.03(b)(4) of the City Charter to adopt business regulations and levy certain business taxes as
12 authorized by the laws of the State of Georgia; and

13
14 **WHEREAS**, O.C.G.A. Section 48-13-90 *et seq.* authorizes the City to levy an excise tax upon the
15 rental charge collected by a rental motor vehicle concern when such charge constitutes a taxable
16 event for purposes of sales and use tax under Article 1, Chapter 8 of Title 48 of the Official Code
17 of Georgia Annotated.

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

21
22 **Section 1:** The Code of the City of Stonecrest, Georgia, is hereby amended by adding
23 **Article VII, Excise Tax on Rental Motor Vehicles of Chapter 24, Taxation, that reads as**
24 **follows:**

25 **CHAPTER 24. TAXATION**

26
27 **ARTICLE VII. – EXCISE TAX ON RENTAL MOTOR VEHICLES**

28
29 **Sec. 24-150. – Definitions.**

30
31 The following words, terms and phrases, when used in this article, shall have the meanings
32 ascribed to them in this section, except where the context clearly indicates a different meaning:

33
34 *Director of finance* means the head or director of the city finance department or his designee.

35
36 *Month or monthly period* shall mean the calendar months of any year.

37
38 *Rental charge* means the total value received by a rental motor vehicle concern for the rental or
39 lease for 31 or fewer consecutive days of a rental motor vehicle, including total cash and
40 nonmonetary consideration for the rental or lease including, but not limited to, charges based on
41 time or mileage and charges for insurance coverage or collision damage waiver but excluding all
42 charges for motor fuel taxes or sales taxes.

43
44 *Rental motor vehicle* means a motor vehicle designed to carry ten (10) or fewer passengers and
45 used primarily for the transportation of persons that is rented or leased without a driver regardless
46 of whether such vehicle is licensed in the state.

47
48 *Rental motor vehicle concern* means a person or legal entity which owns or leases five (5) or more
49 rental motor vehicles and which regularly rents or leases such vehicles to the public for value.

50
51 *Tax, excise tax or taxes* shall mean the tax imposed by this article.

52
53 **Sec. 24-151. – Authority; rules and regulations; records.**

54
55 (a) *Authority.* The director of finance shall administer and enforce this article for the levy and
56 collection of the tax.

57
58 (b) *Rules and regulations.* The director of finance shall have the power and authority to make
59 and publish reasonable administrative rules and regulations not inconsistent with this article
60 or other ordinances of the city of laws of the state or the constitution of the state or the United
61 States for the administration and enforcement of this article and the collection of the tax under
62 this article.

63
64 (c) *Records required.* Every rental motor vehicle concern subject to this article shall keep such
65 records, receipts, invoices and other pertinent papers reflecting the number of rental motor
66 vehicles rented or leased and the gross rental charges received by each rental motor vehicle
67 concern for each month, in such form as the director of finance may require.

68
69 **Sec. 24-152. – Levy of tax.**

70 (a) Within the corporate limits of the city there is assessed and levied an excise tax upon each
71 rental charge collected by any rental motor vehicle concern when such charge constitutes a
72 taxable event for the purposes of the sales and use tax as provided for under Article 1, Chapter
73 8 of the Official Code of Georgia Annotated, as amended. The tax levied pursuant to this
74 article shall be in the amount of three percent (3%) of the rental charge as defined herein. The
75 tax levied pursuant to this article shall be imposed only at the time when, and the place where
76 a customer pays sales tax with respect to the rental charge. The customer who pays a rental
77 charge that is subject to the tax levy as provided in this article shall be liable for the tax. The
78 tax shall be paid by the customer to the rental motor vehicle concern. The tax shall be a debt
79 of the customer to the rental motor vehicle concern until it is paid and shall be recoverable at
80 law in the same manner as authorized for the recovery for other debts.

81 (b) The rental motor vehicle concern collecting the tax shall remit the tax to the director of
82 finance of the city and the tax thus remitted shall be a credit against the tax imposed by this
83 article on the rental motor vehicle concern. Every rental motor vehicle concern subject to the
84 tax levied by this article shall be liable for the tax at the rate of three percent (3%) upon the
85 rental charges actually collected or the amount of taxes collected from the customers,
86 whichever is, greater.

87

88 **Sec. 24-153. – Uses of tax proceeds.**

89 The projects and purposes for which the proceeds of the tax levied by this article are to be
90 expended are specified as follows:

- 91 (a) Promoting industry, trade, commerce and tourism;
- 92 (b) Capital outlay projects consisting of the construction of convention, trade, sports, and
93 recreational facilities, or public safety facilities, including the acquiring, constructing,
94 renovating, improving, and equipping of parking facilities, pedestrian walkways, plazas,
95 connections, and other public improvements associated with such convention, trade,
96 sports and recreational facilities or public safety facilities or the retirement of debt issued
97 with respect to such capital outlay projects; and
- 98 (c) Maintenance and operation expenses or security and public safety expenses associated
99 with subparagraph (b) of this section.

100

101 **Sec. 24-154. – Exclusion from tax.**

102 No tax shall be imposed pursuant to this article on the rental charge associated with the rental
103 or lease of a rental motor vehicle if either:

- 104 (a) The customer picks up the rental motor vehicle outside the state and returns it within the
105 state; or
- 106 (b) The customer picks up the rental motor vehicle in the state and returns it outside the
107 state.

108 **Sec. 24-155. – Authorized deduction for expenses.**

109

110 Each rental motor vehicle concern collecting the tax imposed by this article shall be
111 allowed to retain three percent (3%) of the tax due and collected and may retain that amount in the
112 form of a deduction for expenses incurred in submitting, reporting and paying the amount of taxes
113 due, but only if the amounts due are not delinquent at the time of payment.

114

115 **Sec. 24-156. – Monthly statement required showing rental charges and taxes.**

116

- 117 (a) On or before the 20th day of each month following the month of _____, 20__,
118 the rental motor vehicle concern liable for the tax provided for herein shall transmit to the director
119 of finance a statement showing the rental charges and taxes collected by authority of this article
120 for the immediately preceding calendar month. Along with said statement, the rental motor vehicle
121 concern shall submit to the director of finance the taxes due pursuant to this article for that
122 particular month.

123

124 (b) Failure to remit taxes by the due date shall subject the rental motor vehicle concern to a
125 penalty of five percent (5%) of the taxes then due and in addition to such penalty, interest on the
126 unpaid taxes then due computed at the rate of one percent (1%) per month.

127

128 **Sec. 24-157. – Records.**

129

130 In order to aid in the administration and enforcement of the provisions of this article and to
131 collect all the tax imposed, all rental motor vehicle concerns are hereby required to keep a record
132 of the number of rental motor vehicles rented or leased and all rental charges for rental motor
133 vehicles and taxes collected which are related thereto. Said records shall be open for inspection
134 and copying by any duly authorized agent of the city during regular business hours.

135

136 **Sec. 24-158. – Deficiency Determinations.**

137

138 (a) If the director of finance is not satisfied with the statement or statements of the excise tax
139 provided for herein, or the amount of the tax paid to the city by any rental motor vehicle concern,
140 the director of finance may compute and determine the amount required to be paid upon the basis
141 of any information that is or may come into possession of the director of finance. One (1) or more
142 deficiency determinations may be made of the amount due for one (1) or more monthly periods.

143

144 (b) The amount of the deficiency determination made by the director of finance shall bear
145 interest at the rate of one percent (1%) per month or fraction thereof from the due date of the taxes
146 found to be due but not paid.

147

148 (c) The director of finance shall give to the rental motor vehicle concern a written notice
149 of any such deficiency determination. The notice may be served personally or by mail and if by
150 mail the service shall be addressed to the operator or the owner of the rental motor vehicle concern
151 at the address as the same appears in the business license or other records of the director of finance
152 as provided to him by each rental motor vehicle concern. Service by mail is complete when
153 delivered by certified mail with a receipt signed by an addressee or agent of the addressee.

154

155 (d) Except in cases of failure to file a statement, every notice of deficiency determination
156 shall be mailed within three (3) years after the 20th day of the calendar month following the
157 monthly period in which the amount proposed to be determined or within three (3) years after the
158 statement is filed, whichever period shall expire last.

159

160 **Sec. 24-159. – Failure to file a statement.**

161

162 (a) If any rental motor vehicle concern fails to file a statement as required in this article, the
163 director of finance shall make an estimate of the excise tax due. The estimate shall be made for the
164 period or periods in respect to which the rental motor vehicle concern has failed to file a statement
165 and shall be based upon such information that is or may come into the possession of the director
166 of finance. Written notice shall be given in the manner as prescribed above in section 24-158(c).

167

168 (b) The amount of the delinquency determination shall bear interest at the rate of one (1)

169 percent per month or fraction thereof from the 20th day of the month following the monthly period
170 for which the amount of any portion thereof should have been paid until the date of payment.

171
172 **Sec. 24-160. – Audit authority.**

173
174 Duly authorized employees of the city upon exhibition of identification and during regular business
175 hours may examine and copy the books, papers, records, financial reports, equipment and other
176 facilities if necessary of any rental motor vehicle concern in order to verify the accuracy of any
177 statement filed pursuant to this article or if no statement is filed by the rental motor vehicle concern,
178 to ascertain or determine the amount of tax required to be paid.

179
180 **Sec. 24-161. – Withholding tax on sale of business.**

181
182 (a) If any rental motor vehicle concern liable for any amount under this article transfers or sells
183 its business or quits the business, its successors or assigns shall withhold sufficient amounts from
184 the purchase price to cover any amounts required to be paid pursuant to this article until the former
185 owner or operator of the rental motor vehicle concern produces a receipt from the director of
186 finance or his designee showing that the indebtedness has been paid or a certificate stating that no
187 amount is due.

188
189 (b) If the purchaser of a business or rental motor vehicle concern fails to withhold from
190 the purchase price all amounts due as required herein such purchaser will be personally liable for
191 the payment of the amount of the outstanding tax required to be withheld to the extent of such
192 purchase price.

193
194 **Sec. 24-162. – Penalty for violation.**

195
196 (a) In addition to the interest charges and delinquent penalties specified in this article,
197 any person who fails or refuses to comply with the provisions of this chapter, upon citation by the
198 finance department and conviction of the violation in a court of competent jurisdiction, will be
199 subject to a fine and/or imprisonment in accordance with this Code. Where any violation or offense
200 continues from day to day, each day's continuance thereof will constitute a separate offense.

201
202 (b) For a third and each subsequent violation of this chapter, the court shall impose a
203 fine of not less than two hundred fifty dollars (\$250.00) in addition to any other penalty or
204 punishment imposed by the court.

205
206 (c) The tax levied by this article shall be effective on the first day of
207 _____, 20__ and shall continue until its permissible existence shall expire as provided
208 by law, or until otherwise terminated by the Georgia General Assembly or the City Council.

209
210 **Section 2:**

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

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

215
216 2. It is hereby declared to be the intention of the Mayor and City Council that, to the greatest
217 extent allowed by law, each and every section, paragraph, sentence, clause or phrase of this
218 Ordinance is severable from every other section, paragraph, sentence, clause or phrase of
219 this Ordinance. It is hereby further declared to be the intention of the Mayor and City
220 Council that, to the greatest extent allowed by law, no section, paragraph, sentence, clause
221 or phrase of this Ordinance is mutually dependent upon any other section, paragraph,
222 sentence, clause or phrase of this Ordinance.

223
224 3. In the event that any phrase, clause, sentence, paragraph or section of this Ordinance shall,
225 for any reason whatsoever, be declared invalid, unconstitutional or otherwise
226 unenforceable by the valid judgment or decree of any court of competent jurisdiction, it is
227 the express intent of the Mayor and City Council that such invalidity, unconstitutionality,
228 or unenforceability shall, to the greatest extent allowed by law, not render invalid,
229 unconstitutional or otherwise unenforceable any of the remaining phrases, clauses,
230 sentences, paragraphs or sections of the Ordinance and that, to the greatest extent allowed
231 by law, all remaining phrases, clauses, sentences, paragraphs and sections of the Ordinance
232 shall remain valid, constitutional, enforceable, and of full force and effect.

233
234 4. All ordinances or resolutions and parts of ordinances or resolutions in conflict herewith are
235 hereby expressly repealed.

236
237 5. The within ordinance shall become effective upon its adoption.

238
239 6. The provisions of this Ordinance shall become and be made part of The Code of the City
240 of Stonecrest, Georgia, and the sections of this Ordinance may be renumbered to
241 accomplish such intention.

242 **SO ORDAINED AND EFFECTIVE** this the ____ day of _____, 2017.

243 Approved:

244

245

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247

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255

Attest:

Jason Lary, Sr., Mayor

As to form:

City Attorney

256
257
258
259
260

Brenda James, City Clerk



CITY COUNCIL AGENDA ITEM

SUBJECT: RESOLUTION AUTHORIZING THE SUBMITTAL OF CHARTER AMENDMENTS TO THE DEKALB COUNTY LOCAL DELEGATION

- ORDINANCE POLICY STATUS REPORT
 DISCUSSION ONLY RESOLUTION OTHER

Date Submitted: Work Session: 11/15/2017 Council Meeting: 12/04/2017

SUBMITTED BY: Attorney Tom Kurrie

PURPOSE: This Resolution was brought to the November 20, 2017 City Council Meeting and deferred until the December 4, 2017 Meeting.

HISTORY:

FACTS AND ISSUES:

OPTIONS:

RECOMMENDED ACTION: Recommendation of Mayor and Council

1 **A RESOLUTION OF THE CITY OF STONECREST, GEORGIA, AUTHORIZING THE**
2 **SUBMITTAL OF CERTAIN CHARTER AMENDMENTS TO THE LOCAL**
3 **DELEGATION OF DEKALB COUNTY**

4 **WHEREAS**, the City of Stonecrest was created by Senate Bill 208, passed in the Georgia
5 General Assembly during the 2016 Session and subsequently confirmed by
6 referendum;

7
8 **WHEREAS**, Senate Bill 208 provided a charter for the City of Stonecrest (the "City Charter");

9
10 **WHEREAS**, the mayor and councilmembers desire that various provisions of the City Charter
11 be amended;

12
13 **WHEREAS**, Article IX, Section II, Paragraph II of the Constitution of the State of Georgia,
14 which is titled Home Rule for Municipalities, allows the General Assembly of the
15 State of Georgia to provide by law for the self-government of municipalities,
16 which the General Assembly has done with the Municipal Home Rule Act of
17 1965, provided in O.C.G.A. 36-35-1 *et seq.*;

18
19 **WHEREAS**, O.C.G.A. 36-35-6 provides that the power granted to municipal corporations in
20 subsections (a) and (b) of O.C.G.A. 36-35-3 shall not be construed to extend to
21 action affecting the composition and form of the municipal governing authority,
22 the procedure for election or appointment of the members thereof, and the
23 continuance in office and limitation thereon for such members, among other
24 things, or to any other matters which the General Assembly by general law has
25 preempted or may hereafter preempt, but such matters shall be the subject of
26 general law or the subject of local Acts of the General Assembly to the extent that
27 the enactment of such local Acts is otherwise permitted under the Constitution of
28 the State of Georgia;

29
30 **WHEREAS**, Section 2.10(a) of Article II and Section 3.01(a)(6) of Article III of the City
31 Charter provides that the mayor has one vote on matters brought before the city
32 council for official action; and

33
34 **WHEREAS**, the mayor and the councilmembers of the City of Stonecrest desire that the above
35 provisions be amended to provide that the mayor relinquish the privilege of voting
36 on matters brought before the city council for official action, except to break a tie
37 of the councilmembers; and

38
39 **WHEREAS**, the mayor and councilmembers of the City of Stonecrest desire that in connection
40 with the mayor relinquishing the privilege of voting that the Article II of the

41 Charter be further amended to add new Section 2.34 to provide for the veto power
42 of ordinances; and

43
44 **WHEREAS**, Section 2.02 of Article II of the Charter discusses the eligibility requirements for
45 service of the mayor and each councilmember; and

46
47 **WHEREAS**, the mayor and councilmembers of the City of Stonecrest desire that the eligibility
48 requirements for service of any elected official be amended to add the attainment
49 of the age of 21 as an additional requirement for eligibility of service; and

50
51 **WHEREAS**, the mayor and councilmembers of the City of Stonecrest desire that Article III of
52 the Charter be amended to provide that Section 3.13 be designated for the
53 establishment of the office of chief operating officer to be appointed by the mayor
54 subject to the confirmation of a majority of the councilmembers; and, in
55 furtherance thereof, Section 3.01(a)(8), Section 3.04(a)(14), and Section 3.05 of
56 Article III of the Charter be designated to provide the mayor will provide
57 supervision and guidance to the chief operating officer, the city manager will
58 perform the duties of the chief operating officer if such office is vacant and
59 neither the city council nor its members shall interfere with the performance of
60 services by the chief operating officer; and

61
62 **WHEREAS**, Section 3.01(a)(10) of Article III of the Charter provides that the mayor serve in
63 the position of mayor and be compensated accordingly; and

64
65 **WHEREAS**, the mayor and councilmembers of the City of Stonecrest desire that Section
66 3.01(a)(10) of the Charter be amended to reflect that the service of the mayor is
67 fulltime and further, that Section 2.07 of Article II of the Charter be amended to
68 increase the annual salary of the mayor to \$85,000; and

69
70 **WHEREAS**, the mayor and councilmembers of the City of Stonecrest have determined that the
71 City Charter amendments provided herein should be amended by local act of
72 General Assembly; and

73
74 **WHEREAS**, the mayor and councilmembers of the City of Stonecrest hereby request that the
75 DeKalb County local delegation submit such proposed amendments to the City
76 Charter to the General Assembly.

77
78 **THEREFORE**, the mayor and councilmembers of the City of Stonecrest, Georgia, hereby
79 resolve as follows:

80 **Section 1:** That proposed amendments attached hereto and incorporated herein by reference
81 to the Charter of the City of Stonecrest, Georgia, be submitted to the local delegation of DeKalb
82 County for presentation to the General Assembly during the 2018 session.

83
84 This Resolution shall be effective immediately upon its adoption.

85 **SO RESOLVED** this the _____ day of November, 2017.

Approved:

86
87
88
89 _____
90 Jason Lary, Sr., Mayor

91
92
93 _____
94 Diane Adoma, Councilmember

95
96
97 _____
98 Jazzmin Cobble, Councilmember

99
100
101 _____
102 Jimmy Clanton, Councilmember

103
104
105 _____
106 George Turner, Councilmember

107
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109 _____
110 Rob Turner, Councilmember

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113
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116
117
118 Attest:

119
120
121 _____
122 Brenda James, City Clerk

EXHIBIT TO RESOLUTION
CITY OF STONECREST
2018 CHARTER AMENDMENTS

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Amendment 1: Amend the voting power of the mayor from voting to non-voting except in the event of a tie.

“Section 2.10(a) of Article II of the Charter is amended as follows: (a) Four councilmembers shall constitute a quorum and shall be authorized to transact business for the city council. The mayor shall be counted toward the making of a quorum. Voting on the adoption of ordinances shall be taken by voice vote and the yeas and nays shall be recorded in the minutes, but on the request of any member there shall be a roll-call vote. In order for any ordinance, resolution, motion, or other action of the city council to be adopted, the measure must receive at least three affirmative votes and must receive the affirmative votes of a majority of those voting. ~~No~~Neither any councilmember nor the mayor shall abstain from voting on any matter properly brought before the city council for official action except when such councilmember has a reason which is disclosed in writing prior to or at the meeting and made a part of the minutes. ~~The mayor and e~~Each councilmember when present at a meeting shall have one vote on all matters brought before the council. In the event of a tie in the vote on any matter, the mayor, if present, shall vote to break the tie.

In furtherance thereof, Section 3.01 (a)(6) of Article III of the Charter is amended as follows: (a) The mayor shall:... (6) ~~Not vote~~ ~~Vote in~~ anyall matters before the city council except as provided in Section 2.10(a) of this charter;”

147 **Amendment 2: Grant the mayor the power to veto certain ordinances.**

148 Article II of the Charter is amended to add new Section 2.17 as follows:

149 **“SECTION 2.34.**

150 Veto power of mayor of ordinances.

151 (a) The mayor, within ~~ten~~ ^{5 Business} calendar days of the adoption of an ordinance by
152 councilmembers pursuant to Section 2.10(a), shall return it to the clerk with the mayor's
153 written approval or disapproval. If the ordinance has been approved by the mayor, it shall
154 become law upon its return to the clerk; if the ordinance is neither approved nor
155 disapproved, it shall become law at 12:00 Noon on the ~~tenth~~ ^{5th Business} calendar day after its
156 adoption; if the ordinance is disapproved, the mayor shall submit to the councilmembers
157 through the clerk a written statement of reasons for the veto. The clerk shall record upon
158 the ordinance the date of its delivery to and receipt from the mayor.

159 (b) Any ordinance vetoed by the mayor shall be presented by the clerk to the city council
160 at its next meeting. If the city council at its next meeting adopts the ordinance by an
161 affirmative vote of four councilmembers, it shall become law.

162 (c) The mayor may disapprove or reduce any item or items of appropriation in any
163 ordinance. The approved part or parts of any ordinance making appropriations shall
164 become law, and the part or parts disapproved shall not become law unless subsequently
165 passed by the city council over the mayor's veto as provided herein. The reduced part or
166 parts shall be presented to city council as though disapproved and shall not become law
167 unless overridden by the council as provided in subsection (b) of this section.

168 (d) The mayor shall have no power to veto any ordinance in which he or she voted to
169 break a tie in the manner provided in Section 2.10(a).”

170

171 Amendment 3: Amend the eligibility requirements for service as mayor or
172 councilmember.

173 “Section 2.02(a) of Article II of the Charter is amended as follows:

174 (a) For all elections subsequent to the first election, the mayor and councilmembers shall
175 serve for terms of four years and until their terms shall expire upon the administration of
176 the oath of office to their successors. No person shall be eligible to serve as mayor or
177 councilmember unless that person has attained the age of 21, shall have been a resident of
178 the City of Stonecrest for a continuous period of at least 12 months immediately prior to
179 the date of the election for mayor or councilmember, shall continue to reside therein
180 during that person's period of service, and shall continue to be registered and qualified to
181 vote in municipal elections of the City of Stonecrest. In addition to the above
182 requirements, no person shall be eligible to serve as a councilmember representing a
183 council district unless that person has been a resident of the district such person seeks to
184 represent for a continuous period of at least six months immediately prior to the date of
185 the election for councilmember and continues to reside in such district during that
186 person's period of service.”

187

188 **Amendment 4: Establish the office of chief operating officer.**

189 “Article III of the Charter is amended to renumber Section 3.13 to Section 3.14, to
190 renumber Section 3.14 to 3.15, to renumber Section 3.15 to Section 3.16 and to further
191 add the following language to Section 3.13 as follows:

192 **SECTION 3.13.**

193 Chief Operating Officer

194 (a)The mayor may appoint, an officer whose title shall be the "chief operating officer",
195 subject to the confirmation thereof by a majority of the councilmembers. The chief
196 operating officer shall be appointed without regard to political beliefs and solely on the
197 basis of his or her education and experience. The chief operating officer need not be a
198 resident of the City of Stonecrest. The chief operating officer shall be supervised and
199 directed by the mayor and shall have the power, and it shall be his or her duty to:

200 (1) Appoint and employ all necessary employees of the department of public works
201 and the department of public safety;

202 (2) Remove employees appointed and employed under paragraph (1) of this section,
203 without the consent of the city council or city manager and without assigning any
204 reason therefor;

205 (3) Exercise supervision and control of the department of public works and the
206 department of public safety and all divisions of either created or that may hereafter be
207 created by the councilmembers;

208 (4) Recommend to the city council, after prior review and comment by the mayor, for
209 adoption of such measures as the chief operating officer may deem necessary or
210 expedient with respect to the department of public works and the department of public
211 safety;

212 (5) Operate his or her office and the department of public works and the department
213 of public safety for the amounts appropriated therefor by the city council in the annual
214 budget;

215 (6) Have no authority to perform any function reserved to the city manager under this
216 charter or by ordinance of the councilmembers; and

217 (7) Perform such other duties as required by ordinance or resolution of the
218 councilmembers.

219 (b) In the event of a vacancy in the office of chief operating officer, the city manager
220 shall exercise all powers, duties, and functions of the chief operating officer until a chief
221 operating officer is appointed.

222 In furtherance thereof, Section 3.01 (a)(8) of Article III of the Charter is amended as
223 follows: (a) The mayor shall:... (8) Provide supervision and guidance to the City
224 Manager and the Chief Operating Officer;

225 In furtherance thereof, Section 3.04 (a)(14) of Article III of the Charter is renumbered to
226 be Section 3.04(a)(15) and the following language is added to Section 3.04(a)(14) as
227 follows: (a) The city manager shall:... (14) Perform the duties of the office of the chief
228 operating officer (i) until such time the initial chief operating officer takes office and (ii)
229 in the event of a vacancy in such office thereafter;

230 In furtherance thereof, Section 3.05 of Article III of the Charter is amended as follows:

231 **SECTION 3.05.**

232 City council interference with administration.

233 Except for the purpose of inquiries and investigations under Section 2.08 of this charter
234 or as provided in Section 3.01, ~~and~~ Section 3.03 and Section 3.13 of this charter neither
235 the city council nor its members shall interfere with the performance of services by or
236 give orders to any such officer or employee, either publicly or privately.”

237 **Amendment 5: Increase the annual salary of the mayor to \$85,000 from \$20,000.**
238 “The first sentence of Section 2.07 of Article II of the Charter “Compensation and
239 expenses” is amended as follows: Commencing January 1, 2018, theThe annual salary of
240 the mayor shall be \$85,000.00~~\$20,000.00~~ and the annual salary for each councilmember
241 shall be \$15,000.00.
242 In furtherance thereof, Section 3.01 (a)(10) of Article III of the Charter is amended as
243 follows: (a) The mayor shall:…Serve full



CITY COUNCIL AGENDA ITEM

SUBJECT: ORDINANCE ADOPTING ARTICLE IV, DEPOSITORY FINANCIAL INSTITUTIONS BUSINESS LICENSE TAX OF CHAPTER 24, TAXATION OF THE CODE OF ORDINANCES OF THE CITY OF STONECREST

- ORDINANCE POLICY STATUS REPORT
 DISCUSSION ONLY RESOLUTION OTHER

Date Submitted: 11/27/2017 Work Session: 11/29/2017 Council Meeting: 12/04/2017

SUBMITTED BY: Attorney Laura Cosgray

PURPOSE: This ordinance is to adopt Article IV, Depository Financial Institutions, Business License Tax of Chapter 24, Taxation.

HISTORY:

FACTS AND ISSUES:

OPTIONS:

RECOMMENDED ACTION: First Read December 4, 2017

**AN ORDINANCE OF THE CITY OF STONECREST, GEORGIA, ADOPTING
ARTICLE IV, DEPOSITORY FINANCIAL INSTITUTIONS BUSINESS LICENSE TAX
OF CHAPTER 24, TAXATION, OF THE CODE OF ORDINANCES OF THE CITY OF
STONECREST, GEORGIA**

WHEREAS, the City of Stonecrest, Georgia Mayor and City Council are authorized by Section 1.03(b)(4) of the City Charter to adopt business regulations and levy certain business taxes as authorized by the laws of the State of Georgia; and

WHEREAS, O.C.G.A. § 48-6-93 authorizes municipalities within the state to levy and collect a business license tax from depository financial institutions having an office within their jurisdiction;

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

Section 1: The Code of the City of Stonecrest, Georgia, is hereby amended by adding Article IV, Depository Financial Institutions Business License Tax of Chapter 24, Taxation, that reads as follows:

CHAPTER 24. TAXATION

**ARTICLE IV. – DEPOSITORY FINANCIAL INSTITUTIONS BUSINESS LICENSE
TAX**

Sec. 24-61. – Levy; applicability.

An annual business license tax is hereby levied upon all depository financial institutions located within the city at a rate of one-quarter of one percent of the gross receipts of such depository financial institutions. Gross receipts shall mean gross receipts as defined in O.C.G.A. § 48-6-93. Depository financial institutions shall mean state and national banks, state building and loan associations, and federal savings and loan associations.

Sec. 24-62. – Minimum tax.

The minimum annual amount of business license tax due from any depository financial institution shall be one thousand dollars (\$1,000.00).

Sec. 24-63. – Filing of return; payment.

37 Each depository financial institution subject to the tax levied by this article shall file a
38 return of its gross receipts with the finance department not later than March 1 of the year
39 following the year in which such gross receipts are measured. The return shall be in the manner
40 and in the form prescribed by the commissioner of the state department of revenue based on the
41 allocation method set forth in O.C.G.A. § 48-6-93. The tax imposed by this article shall be paid
42 at the time of filing the return.

43

44 **Sec. 24-64. – Penalty and interest for failure to pay tax; executions.**

45 (a) In accordance with Sec. 2-176, any portion of the tax levied by this article not paid
46 before it comes delinquent shall be assessed a late penalty and shall bear interest from the
47 date the tax is due until the tax is paid.

48 (b) For purposes of this section, any period of less than one month shall be considered to be
49 one month. The finance department shall issue executions against such taxpayer owing
50 taxes, penalties or interest as provided in this section when the same become delinquent. The
51 execution shall be recorded on the general execution docket in the office of the clerk of
52 superior court of the county.

53

54 **Sec. 24-65. – Administration.**

55 (a) *Authority of finance department.* The finance department shall administer and enforce
56 the provisions of this article for the levy and collection of the tax imposed by this article.

57 (b) *Rules and regulations.* The finance director shall have the power and authority to make
58 and publish reasonable rules and regulations not inconsistent with this article or other laws
59 of the city and the state or the state constitution or the United States Constitution for the
60 administration and enforcement of the provisions of this article and the collection of the
61 taxes hereunder.

62 (c) *Examination of records; audits.* The finance director or any person authorized in writing
63 by the director may examine the books, papers, records, financial reports, equipment and
64 other facilities of any licensee liable for the tax, in order to verify the accuracy of any return
65 made, or if no return is made by the licensee, to ascertain and determine the amount required
66 to be paid.

67 (d) *Disclosure of business of operators, etc.; limitations on rule.* The finance director or
68 their designee shall not make known in any manner the business affairs, operations or
69 information obtained by an audit of books, papers, records, financial reports, equipment and
70 other facilities of any licensee or any other person visited or examined in the discharge of
71 official duty, or the amount of source of income, profits, losses, expenditures or any
72 particular thereof, set forth or disclosed in any return, or to permit any return or copy thereof
73 or any book containing any abstract or particulars thereof to be seen or examined by any
74 person not having such administrative duty under this article, except in the case of judicial
75 proceedings or other proceedings necessary to collect the tax hereby levied and assessed.
76 Successors, receivers, trustees, executors, administrators, and assignees if directly

77 interested, may be given information as to the items included in the measure and amount of
78 unpaid tax, interest and penalties, or amounts of tax, interest and penalties required to be
79 collected.
80

81 **Section 2:**

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

86
87 2. It is hereby declared to be the intention of the Mayor and City Council that, to the
88 greatest extent allowed by law, each and every section, paragraph, sentence, clause or
89 phrase of this Ordinance is severable from every other section, paragraph, sentence,
90 clause or phrase of this Ordinance. It is hereby further declared to be the intention of the
91 Mayor and City Council that, to the greatest extent allowed by law, no section, paragraph,
92 sentence, clause or phrase of this Ordinance is mutually dependent upon any other
93 section, paragraph, sentence, clause or phrase of this Ordinance.

94
95 3. In the event that any phrase, clause, sentence, paragraph or section of this Ordinance
96 shall, for any reason whatsoever, be declared invalid, unconstitutional or otherwise
97 unenforceable by the valid judgment or decree of any court of competent jurisdiction, it is
98 the express intent of the Mayor and City Council that such invalidity, unconstitutionality,
99 or unenforceability shall, to the greatest extent allowed by law, not render invalid,
100 unconstitutional or otherwise unenforceable any of the remaining phrases, clauses,
101 sentences, paragraphs or sections of the Ordinance and that, to the greatest extent allowed
102 by law, all remaining phrases, clauses, sentences, paragraphs and sections of the
103 Ordinance shall remain valid, constitutional, enforceable, and of full force and effect.
104

105 4. All ordinances or resolutions and parts of ordinances or resolutions in conflict herewith
106 are hereby expressly repealed.
107

108 5. The within ordinance shall become effective upon its adoption.
109

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

113 **SO ORDAINED AND EFFECTIVE** this the ____ day of _____, 2017.

114 Approved:
115
116
117 _____

STATE OF GEORGIA
COUNTY OF DEKALB
CITY OF STONECREST

ORDINANCE 2017-_____

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Attest:

Brenda James, City Clerk

Jason Lary, Sr., Mayor

As to form:

City Attorney



CITY COUNCIL AGENDA ITEM

SUBJECT: ORDINANCE GRANTING FRANCHISE FEES TO GEORGIA POWER BY THE CITY OF STONECREST, GEORGIA

- ORDINANCE POLICY STATUS REPORT
 DISCUSSION ONLY RESOLUTION OTHER

Date Submitted: 11/27/2017 Work Session: 11/29/2017 Council Meeting: 12/04/2017

SUBMITTED BY: Attorney Destiny Washington

PURPOSE: This ordinance is granting franchise to Georgia Power Company by the City of Stonecrest, Georgia.

HISTORY:

FACTS AND ISSUES:

OPTIONS:

RECOMMENDED ACTION: First Read December 4, 2017

ORDINANCE GRANTING FRANCHISE

To

GEORGIA POWER COMPANY

By

CITY OF STONECREST

On

_____, 2017

The within franchise accepted on

_____, 2017.

GEORGIA POWER COMPANY

By: _____
President

ORDINANCE GRANTING PERMISSION AND CONSENT to Georgia Power Company, a Georgia corporation, and its successors, lessees, and assigns (hereinafter referred to collectively as the "Company") to occupy the streets and public places of the City of Stonecrest, Georgia, a municipality and political subdivision of the State of Georgia (hereinafter referred to as the "City"), in constructing, maintaining, operating, and extending poles, lines, cables, equipment, and other apparatus for transmitting and distributing electricity and for other purposes.

SECTION I. Be it ordained by the governing authority of the City that the authority, right, permission, and consent are hereby granted to the Company, for a period of thirty-five (35) years from the date of the Company's acceptance hereof, to occupy and use the streets, alleys, and public places of the City within the present and future corporate limits of the City as from time to time the Company may deem proper or necessary for the overhead or underground construction, maintenance, operation, and extension of poles, towers, lines, wires, cables, conduits, insulators, transformers, appliances, equipment, connections, and other apparatus (hereinafter referred to collectively as the "Company's Facilities") for the business and purpose of transmitting, conveying, conducting, using, supplying, and distributing electricity for light, heat, power, and other purposes for which electric current may be or become useful or practicable for public or private use, and to re-enter upon such streets, alleys, and public places from time to time as the Company may deem proper or necessary to perform these functions, and to cut and trim trees and shrubbery when and where necessary, in the judgment of the Company, to insure safe and efficient service.

SECTION II. Be it further ordained that the rights, permission, and consents herein contained are granted for the following considerations and upon the following terms and conditions:

1. The Company shall pay into the treasury of the City (a) on or before the first day of March in each year following the granting of this franchise, a sum of money equal to four percent (4%) of the gross sales of electric energy to customers served under residential and commercial rate schedules (as prescribed by the Georgia Public Service Commission) within the corporate limits of the City during the preceding calendar year and four percent (4%) of the gross sales of electric energy to customers served under industrial rate schedules (as so prescribed) within the corporate limits of the City during the period beginning on the first day of the month following the granting of this franchise and ending on December 31 thereafter and (b) on or before the first day of March of each year thereafter during the term of this franchise, a sum of money equal to four percent (4%) of the gross sales of electric energy to customers served under residential, commercial, and industrial rate schedules (as so prescribed) within the corporate limits of the City during the preceding calendar year, on condition that in the event the City shall grant to any other entity the right to use and occupy the City's streets for like purposes, such use and occupancy shall be upon the same terms and conditions as those herein contained, including the payment provisions hereof.

2. The amount, if any, of any tax, fee, charge, or imposition of any kind required, demanded, or exacted by the City on any account, other than ad valorem taxes on property, shall operate to reduce to that extent the amount due from the percentage of gross sales provided for in paragraph 1 of this Section II.

3. The Company shall fully protect, indemnify, and save harmless the City from all damages to persons or property caused by the construction, maintenance, operation, or extension of the Company's Facilities, or conditions of streets, alleys, or public places resulting therefrom, for which the City would otherwise be liable.

4. The Company shall, in constructing, maintaining, operating, and extending the Company's Facilities, submit and be subject to all reasonable exercises of the police power by the City. Nothing contained herein, however, shall require the Company to surrender or limit its property rights created hereby without due process of law, including adequate compensation, for any other purpose at the instance of the City or for any purpose at the instance of any other entity, private or governmental.

5. For purposes of paragraph 6 of this Section II, the term "Distribution Facilities" means poles, lines, wires, cables, conductors, insulators, transformers, appliances, equipment, connections, and other apparatus installed by or on behalf of the Company (whether before or after the adoption of this ordinance) in the streets, alleys, or public places of the City for the purpose of distributing electricity within the present and future corporate limits of the City. Distribution Facilities do not include any of the following: (i) electric transmission lines with a design operating voltage of 46 kilovolts or greater (hereinafter referred to as "Transmission Lines"); (ii) poles, towers, frames, or other supporting structures for Transmission Lines (hereinafter referred to as "Transmission Structures"); (iii) Transmission Lines and related wires, cables, conductors, insulators, or other apparatus attached to Transmission Structures; (iv) lines, wires, cables, or conductors installed in concrete-encased ductwork; or (v) network underground facilities.

6. In the event that the City or any other entity acting on behalf of the City requests or demands that the Company relocate any Distribution Facilities from their then-current locations within the streets, alleys, and public places of the City in connection with a public project or improvement, then the Company shall relocate, at its expense, the Distribution Facilities affected by such project or improvement. The Company's obligations under this paragraph 6 shall apply without regard to whether the Company has acquired, or claims to have acquired, an easement or other property right with respect to such Distribution Facilities and shall not affect the amounts paid or to be paid to the City under the provisions of paragraph 1 of this Section II. Notwithstanding the foregoing provisions of this paragraph 6, the Company shall not be obligated to relocate, at its expense, any of the following: (i) Distribution Facilities that are located on private property at the time relocation is requested or demanded; (ii) Distribution Facilities that are relocated in connection with sidewalk improvements (unless such sidewalk improvements are related to or associated with road widenings, the creation of new turn lanes, or the addition of acceleration/deceleration lanes); (iii) streetscape projects or other projects undertaken primarily for aesthetic purposes; or (iv) Distribution Facilities that are converted from an overhead configuration or installation to an underground configuration or installation.

7. The City and the Company recognize that both parties benefit from economic development within the City. Accordingly, when it is necessary to relocate any of the Company's Facilities (whether Distribution Facilities, Transmission Lines, Transmission Structures, or other facilities) within the City, the City and the Company shall work cooperatively to minimize costs, delays, and inconvenience to both parties while ensuring compliance with applicable laws and regulations. In addition, the City and the Company shall communicate in a timely fashion to coordinate projects included in the City's five-year capital improvement plan, the City's short-term work program, or the City's annual budget in an effort to minimize relocation of the Company's Facilities. Such communication may include, but is not limited to, (i) both parties' participation in the Georgia Utilities Coordinating Council, Inc. (or any successor organization) or a local utilities coordinating council (or any successor organization) and (ii) both parties' use of the National Joint Utility Notification System (or any successor to such system mutually acceptable to both parties).

8. With regard to each streetscape project undertaken by or on behalf of the City, the City shall pay the Company in advance for the Company's estimated cost to relocate any of the Company's Facilities (whether Distribution Facilities, Transmission Lines, Transmission Structures, or other facilities) in

connection with such project. For each streetscape project, the Company shall estimate in good faith the amount of incremental base revenue, if any, that the Company will realize as a result of new customer load or expansion of existing customer load attributable to such project; and such estimate shall be based on tariffs in effect at the time that construction of such project begins and shall not include fuel recovery charges, non-electric service billings, or taxes. If such estimate indicates that the Company will realize incremental base revenue, the Company shall do one of the following, whichever results in greater cost savings to the City: (i) reduce the City's advance payment to the Company for relocation costs by ten percent (10%); or (ii) where the City has developed a bona fide marketing plan within twelve (12) months after construction of such project begins, either refund the amount of the Company's incremental base revenue during such twelve-month period to the City or credit such amount against any future payment due from the City to the Company. The City and the Company acknowledge and agree that the amount of any refund or credit calculated pursuant to clause (ii) of the foregoing sentence of this paragraph 8 shall not exceed the amount of the City's advance payment to the Company for relocation costs associated with such project.

SECTION III. Be it further ordained that nothing contained in this ordinance shall limit or restrict the right of customers within the corporate limits of the City to select an electric supplier as may hereafter be provided by law.

SECTION IV. Be it further ordained that from time to time after the approval of this ordinance, the Company and the City may enter into such additional agreements as the Company and the City deem reasonable and appropriate; provided, however, that such agreements shall not be inconsistent with the terms and conditions of the franchise granted in this ordinance, shall not extend beyond the term of the franchise, and shall be enforceable separate and apart from the franchise.

SECTION V. Be it further ordained that the Company shall, within ninety (90) days from the approval of this ordinance, file the Company's written acceptance of the franchise granted in this ordinance with the Clerk of the City, so as to form a contract between the Company and the City.

SECTION VI. Be it further ordained that upon such acceptance all laws and ordinances, and all agreements between the Company and the City with respect to the Company's use of the City's streets, alleys, and public places, in actual conflict herewith be and the same shall thereupon stand repealed and terminated, respectively.

Adopted by the City Council of the City of Stonecrest, Georgia, at a meeting held on

_____, 2017.

Approved: _____, 2017.

Mayor

I, _____, Clerk of the City of Stonecrest, Georgia, hereby certify that I was present at the meeting of the City Council of the City of Stonecrest, Georgia, held on _____, 2017, which meeting was duly and legally called and held, and at which a quorum was present, and that an ordinance, a true and correct copy of which I hereby certify the foregoing to be, was duly passed and adopted by the City Council of the City of Stonecrest, Georgia, at said meeting.

IN WITNESS WHEREOF, I hereunto set my hand and the corporate seal of the City of Stonecrest, County of Dekalb, State of Georgia, this _____ day of _____, 2017.

Clerk