

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

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

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

THEREFORE, IT is ORDAINED as follows:

**Section 1:**

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

**CHAPTER 18 - NUISANCES**

**ARTICLE I – IN GENERAL**

**Sec. 18-1. - Purpose and findings.**

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

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

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

Sec. 18-2. - Scope and application.

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

Sec. 18-3 – 18-6. Reserved.

ARTICLE II. – PROPERTY MAINTENANCE CODE ADOPTION

Sec. 18-7. – Adopted Codes.

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

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

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

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

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

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

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

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

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

The following sections are hereby revised:

Section 101.1 Insert "*City of Stonecrest*".

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

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

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

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

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

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

Section 302.4 Insert *"10 inches"*

Section 304.14 Insert *"April 1<sup>st</sup> and October 1<sup>st</sup>"*.

Section 602.3 Insert *"November 1st and April 1<sup>st</sup>"*

Section 602.4 Insert *"November 1st and April 1<sup>st</sup>"*

The following sections are hereby inserted:

#### Section 507. STORM DRAINAGE

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

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

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

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

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

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

Sec. 18-10. – Pending Cases

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

Sec. 18-11. – Sec. 18-14. Reserved.

ARTICLE III. – VEHICLES

Sec. 18-15. – Restrictions and limitations.

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

(1) Is unregistered; or

(2) Has expired registration; or

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

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

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

(c) *Major overhaul.*

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

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

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

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

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

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

Sec. 18-20. - Vegetation and debris.

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

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

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

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

- 238 (a) Persons shall keep their property free of those weeds and underbrush which create a health menace,  
239 fire hazard or an unsafe or unsanitary condition as well as trash, garbage, inoperable vehicles or other  
240 things thereon which constitute a violation of the provisions of this Chapter.
- 241 (b) It shall be unlawful for the owner, operator or occupant of a dwelling, rooming house, building or  
242 structure to use the premises of such property for the open storage of any inoperable vehicle, household  
243 appliance, glass, building material, building trash or similar item. It shall be the duty and the  
244 responsibility of each owner, operator or occupant to maintain the premises of such property and to  
245 remove from the premises all abandoned items as listed above, including, but not limited to, weeds,  
246 dead trees, trash and garbage, upon notice from the city.
- 247 (c) Owners and occupants of property shall not permit weeds or grass within one hundred fifty (150) feet  
248 of any building or structure to grow on such property to a height exceeding ten(10) inches, including  
249 in any public right of way.
- 250 (d) Owners and tenants of property or structures abutting a street, sidewalk, lane or parking area on which  
251 the property or structure abuts shall maintain the property or structure clean and free of garbage and  
252 trash.
- 253 (e) Where parking in open areas is used jointly for the benefit of two (2) or more owners or tenants, the  
254 responsibility for maintaining these parking areas free of garbage and trash shall be the joint and  
255 severable responsibility of the owners and tenants of these premises.
- 256 Sec. 18-22.-18-24. Reserved.

257

258 ARTICLE V. - ADMINISTRATION, ENFORCEMENT, VIOLATION AND PENALTIES

259

260 Sec. 18-25. - Enforcement generally.

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

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

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

Sec. 18-26. - No financial interest.

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

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

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

Sec. 18-28. - Stopping work.

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

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

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

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

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



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

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

Sec. 18-30. - Violations.

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

Sec. 18-31. - Penalties.

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

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

(1) Result in undue burden or hardship;

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

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

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

ARTICLE VI. - OFFENSES INVOLVING PROPERTY RIGHTS

DIVISION 1- GENERAL OFFENSES

Sec. 18-35. - Vandalism.

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

(b) *Private property.*

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

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

Sec. 18-36. - Graffiti.

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

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

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

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

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

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

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

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

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

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

398

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

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

402

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

404 DIVISION 2. - LITTERING

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

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

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

413

414 Sec. 18-52. - Applicability.

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

416

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

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

424

425 Sec. 18-54. - Severability.

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

429

430 Sec. 18-55. - Definitions.

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

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

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

438

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

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

443 (1) The property is designated by the state or by any of its agencies or political subdivisions for the  
444 disposal of such litter, and such person is authorized by the proper public authority to use such  
445 property;

446 (2) The litter is placed into a receptacle or container installed on such property; or,

447 (3) The person is the owner or tenant in lawful possession of such property, or has first obtained  
448 consent of the owner or tenant in lawful possession, or unless the act is done under the personal  
449 direction of the owner or tenant, all in a manner consistent with the public welfare.

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

452

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

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

457

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

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

466 (b) *Evidence.*

467 (1) Whenever litter is thrown, deposited, dropped or dumped from any motor vehicle, boat, airplane,  
468 or other conveyance in violation of this division, it shall be prima facie evidence that the operator  
469 of the conveyance has violated this division.

470 (2) Except as provided in subsection (1), whenever any litter which is dumped, deposited, thrown or  
471 left on public or private property in violation of this division is discovered to contain any article  
472 or articles, including but not limited to letters, bills, publications or other writing which display  
473 the name of the person thereon in such a manner as to indicate that the article belongs or belonged  
474 to such person, it shall be a rebuttable presumption that such person has violated this chapter.

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

- (1) By a fine of not less than \$200.00 and not more than \$1000.00, and/or imprisonment in accordance with this Code. Where any offense or violation continues from day to day, each day's continuance thereof shall be deemed a separate offense; and
- (2) In addition to the fine set out in subsection (1) above, the violator shall reimburse the city for the reasonable cost of removing the litter when the litter is or is ordered removed by the city; and
- (3) In the sound discretion of the court, the person may be directed to pick up and remove from any public street or highway or public right-of way any litter he or she has deposited and any and all litter deposited thereon by anyone else prior to the date of execution of sentence; or
- (4) In the sound discretion of the court, the person may be directed 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, and any and all litter deposited thereon by anyone prior to the date of execution of sentence; and
- (5) The court may publish the names of persons convicted of violating this division.

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

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

Sec. 18-59- Reserved.

## ARTICLE VII. . – NOISE

### Sec. 18-60. – Purpose and intent.

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

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

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

### Sec. 18-61. – Applicability.

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

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

Sec. 18-62. - Definitions.

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

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

*ANSI* means the American National Standards Institute.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

#### DIVISION 1. - NOISE IN RESIDENTIAL AREAS

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

- (d) *Construction and demolition activity in mixed-use developments.* Construction and demolition activity or deliveries shall only be performed between the hours of 7:00 a.m. and 7:00 p.m. on weekdays, or between the hours of 8:00 a.m. and 5:00 p.m. on Saturdays in mixed-use developments. There shall be no construction or demolition activity or deliveries on Sundays, New Year's Day, Thanksgiving Day, Christmas Day, Memorial Day, July 4, or Labor Day in mixed-use developments unless such activity arises from an emergency which puts the site or neighboring property owners and their property at risk of harm or loss.
- (e) *Testing burglar and fire alarms in a mixed-use development.* The testing of burglar or fire alarms in a mixed-use development shall not exceed five (5) minutes in duration, and shall not occur between the hours of 8:00 p.m. and 7:00 a.m. Fire drills may be conducted outside of these hours no more than once a month, and with prior notification to all properties within two hundred fifty (250) feet of the property line where the testing will take place.

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

Sec. 18-67. - Enforcement officers.

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

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

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

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

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

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

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

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

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

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

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

746

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

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

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

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

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

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

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

765

766 ARTICLE VIII. - CLEAN INDOOR AIR

767 Sec. 18-71. - Title.

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

Sec. 18-72. - Findings and purpose.

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

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

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

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

Sec. 18-73. - Definitions.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

875

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

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

879

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

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

883

884 Sec. 18-76. - Reasonable distance.

885 (a) Smoking shall be prohibited within:

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

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

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

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(1) Smoking in such parking lots is prohibited if it occurs in an area of the parking lot that is within twenty 20 feet of any outside entrance, operable window or ventilation system of a common area, public place, place of employment, or outdoor recreational public place.

(2) Smoking is prohibited in the parking lots of a common area, public place, place of employment, or outdoor recreational public place if the owner, operator, manager, employer, or other person who controls the common area, public place, place of employment or outdoor recreational public place has posted in the parking lots "No Smoking" signs that comply with the requirements of this division.

Sec. 18-77. - Exemptions.

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

(1) Private residences, including private residences which may serve as an office workplace, except if used as a childcare, an adult daycare or a health care facility.

(2) Designated smoking rooms in hotels and motels rented by guests, provided that such designated smoking rooms shall not comprise more than 25 percent of the total number of rooms available for rent.

(3) Retail tobacco stores.

(4) Outdoor areas of places of employment, except where an owner or employer declares that the outdoor area is a smoke-free environment, as provided in this article.

(5) Restaurants and bars as follows:

a. All restaurants and bars to which access is denied to any person under the age of 18 and that do not employ any individual under the age of 18 years; or

b. Private rooms in restaurants and bars if such rooms are enclosed and have an air handling system independent from the main air handling system that serves all other areas of the building and all air within the private room is exhausted directly to the outside by an exhaust fan of sufficient size.

(b) To qualify for exempt status under subsection (a) of this section, any area described in subsection (a) of this section, except for areas described in paragraph (1) of subsection (a) of this section, shall post conspicuously at every entrance a sign indicating that smoking is permitted.

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

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

Sec. 18-79. - Employers' responsibility.

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

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

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

935

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

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

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

943

944

945 Sec. 18-81. – Enforcement.

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

948

949

950 Sec. 18-82. - Nonretaliation.

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

954

955 Sec. 18-83. - Violations and penalties.

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

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

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

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

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

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

966

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

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

972



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

Sec. 18-85. Purpose.

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

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

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

Sec. 18-86. Definitions.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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1060           b) Notwithstanding subsection (a) of section 18-88, a stay in excess of one hundred and eighty (180)  
1061 consecutive days may occur in the following situations:

1062           1) Where there is a written contract or documented agreement between an extended-stay hotel and a  
1063 business, corporation, firm or governmental agency to house employees or individuals on valid work orders;

1064           2) Where there is documentation, consistent with HIPPA privacy rules, that a hotel guest is considered  
1065 family or is providing care for a patient who is admitted at local hospital; or

1066           3) When an insurance company or federal, state or local agency has provided documentation that a  
1067 hotel guest has been displaced from their home by a natural disaster or fire.

1068           c) Extended-stay hotels are required to comply with all applicable provisions of this code, including  
1069 but not limited to Chapter 27.

1070           d) All extended-stay hotels constructed after July 1, 2018 must provide a minimum of one thousand  
1071 (1,000) square feet in common areas for recreational use by guests. In computing the one thousand (1,000)  
1072 square feet requirement, swimming pools, fitness or recreation centers, patios, terraces, and other  
1073 recreational facilities in common areas may be used in determining the square footage required by this  
1074 subsection. An extended-stay hotel is considered constructed only after a certificate of occupancy is issued.

1075           Sec. 18-90. Responsibilities, access, and registration requirements.

1076           (a) Every owner, operator, keeper or proprietor of any hotel, motel, or extended-stay hotel shall,  
1077 without delay, report violations of law to the City or its designee that were either witnessed or made known  
1078 to them by an employee, patron, guest, visitor or other person on the premises.

1079           (b) Every owner, operator, keeper or proprietor of any hotel, motel, or extended-stay hotel shall, at all  
1080 times, maintain a manager on duty capable of assisting, communicating, and cooperating with the City,  
1081 code enforcement, police or other law enforcement officials in maintaining the public health, welfare, and  
1082 safety.

1083           (c) All information required to be procured and kept pursuant to this ordinance shall be kept strictly  
1084 confidential in accordance with state and federal law and shall not be provided to any person except to a  
1085 federal or state law enforcement officer or to any officer empowered to enforce this ordinance.

1086           (d) All information required to be procured and kept pursuant to this ordinance shall be provided to  
1087 any federal or state law enforcement officers, code enforcement officer, or local sworn enforcement officer  
1088 empowered to enforce this ordinance, upon demand of the officer and a representation by said officer that  
1089 a reasonable suspicion exists that such information is relevant to a then-pending inquiry or investigation.  
1090 Nothing in this requirement shall be construed as giving any such officer any greater right or license to  
1091 enter a room or invade privacy than the officer shall otherwise possess as a matter of law, probable cause,  
1092 constitutional law, statutory right, or warrant.

1093           (e) Every owner, operator, keeper or proprietor of any hotel, motel, or extended-stay hotel shall keep  
1094 a record of all rental agreements between the hotel, motel, or extended-stay hotel and all patrons and their  
1095 guests, and make these records available to the City within a reasonable time upon request. For the purposes  
1096 of this section, the term "record" shall mean the hotel, motel, or extended-stay hotel's electronic guest  
1097 registration system which stores guest identifying information. In the event the hotel, motel, or extended-  
1098 stay hotel does not have an electronic guest registration system, the hotel, motel, or extended-stay hotel  
1099 shall record the guest, patron and their guest's information in a paper record or reservation book. The  
1100 following information, at a minimum, must be recorded at the time of registration and maintained for a  
1101 period of no less than one hundred eighty (180) days after the rental agreement's termination:

1102           (1) The full name, phone number, and home address of each patron and overnight guest. If the patron  
1103 is a tourism company or other business, only the patron shall be required to provide this information;

1104           (2) The total number of occupants (patrons and guests) registered in each room;

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

1144 (c) No operator, owner, keeper, or proprietor, patron, visitor or guest of any hotel, motel, or extended-  
1145 stay hotel shall be allowed to congregate within any room or single rental unit a number of persons which  
1146 is greater than two (2) times the number of persons for whom sleeping accommodations are provided within  
1147 the single room or rental unit except when temporarily designated as a hospitality suite by the hotel, motel,  
1148 or extended-stay hotel.

1149 (d) Daily housekeeping shall be included within the standard room rate of any hotel, motel, or extended  
1150 stay hotel. At a minimum, rooms must be cleaned before each new guest checks in and no less frequently  
1151 than once every seven (7) days. Each hotel, motel, and extended-stay hotel must maintain a log that  
1152 documents when each room is cleaned. The log must be maintained for one hundred and twenty (120) days  
1153 for extended-stay hotels and must be maintained for thirty (30) days for hotels and motels. Any hotel, motel,  
1154 or extended-stay hotel must make these records available to the City within a reasonable time upon request.

1155 (e) The utilization of clothes-lines or other clothes-drying equipment or facilities outside of a room  
1156 that are located on or are visible from the outside of a room are prohibited. Balconies and railings are not  
1157 to be used for hanging towels, personal items or any other articles of clothing.

1158 (f) No occupational tax certificate shall be issued for the purpose of conducting business from a guest  
1159 room of a hotel, motel, or extended-stay hotel, and no home occupation shall be conducted from such room.

1160 (g) Each existing and newly constructed guest room of a hotel, motel, or extended-stay hotel in  
1161 existence as of July 1, 2018 of this article shall, at a minimum, be brought into compliance, within three (3)  
1162 years of the date of the effective date of this ordinance, with sprinkler requirements for new construction  
1163 set forth in NFPA 101, 2012 edition. The fire marshal shall provide notice to the building owner or agent  
1164 of any hotel or dormitory that is not in compliance with NFPA 101, 2012 edition. Within sixty (60) days of  
1165 receiving such notice of noncompliance, the building owner or agent of such owner shall file an intent to  
1166 comply with this requirement with the fire marshal. Unless otherwise noted, it is intended that the provisions  
1167 of this section be applied to new as well as existing facilities, equipment, structures, or installations that are  
1168 approved for construction or installation prior to the effective date of this document. Existing facilities,  
1169 equipment, structures, or installations will have three (3) years from July 1, 2018 to comply with the  
1170 provisions of this section. The following extensions and exemptions to this requirement shall apply:

1171 (1) Hotels, motels, or extended-stay hotels in existence as of July 1, 2018 may receive up to a two (2)  
1172 year extension at the discretion of the Director of the Community Development Department based on  
1173 submitted plans for the installation of the approved supervised Sprinkler System. An affidavit shall be  
1174 submitted to the fire marshal within sixty (60) days of the end of the three (3) year period, certifying that  
1175 the premise is in compliance with the following regulation:

1176 (A) No kitchen facilities are installed or operated within any dwelling unit. Microwaves are allowed.

1177 (2) Automatic sprinkler protection shall not be required in buildings where all guest sleeping rooms or  
1178 guest suites have a door opening directly to either of the following:

1179 (A) Outside at the street or the finished ground level

1180 (B) Exterior exit access arranged in accordance with NFPA 101:7.5.3 in buildings three or  
1181 fewer stories in height

1182 (3) NFPA 101: 7.5.3 Exterior Ways of Exit Access.

1183 (A) 7.5.3.1 Exit access shall be permitted to be by means of any exterior balcony, porch,  
1184 gallery, or roof that conforms to the requirements of this chapter.

1185 (B) 7.5.3.2 The long side of the balcony, porch, gallery, or similar space shall be at least fifty  
1186 (50) percent open and shall be arranged to restrict the accumulation of smoke.

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

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

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

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

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

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

1217 Sec. 18-94. Smoking.

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

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

1223 Sec. 18-95. Video Surveillance Systems.

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

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

1231 (c) All VSS shall be maintained in proper working order at all times, be kept in continuous operation  
1232 24 hours a day, 7 days a week, and meet the minimum technological standards established in this section.  
1233 The hotel, motel, or extended-stay hotel shall retain the continuous digital images recorded by this system  
1234 for no less than twenty-one (21) days.

1235 (d) All VSS shall have no less than one camera dedicated to each register or check-out stand,  
1236 entrance/exit, interior hallway and lobby, swimming pool area, exercise facility, loading dock, and parking  
1237 lots or areas designated for customer and/or employee parking use. The placement of cameras included in  
1238 VSS required under this section must be approved by the city. The city will conduct an assessment of each  
1239 site required to install a VSS prior to installation of said system, and upon approval will issue an approval  
1240 notice which will be placed in plain view inside the common area of the hotel, motel, or extended-stay  
1241 hotel. This approval notice will also inform customers and employees of the presence of the VSS. Existing  
1242 VSS at any hotel, motel, or extended-stay hotel as of the effective date of this ordinance will be evaluated  
1243 to ensure full compliance with this section.

1244 (e) The VSS shall be subject to regular inspection by the city, who is authorized to inspect any such  
1245 System, at reasonable times to determine whether it conforms to this section. If the VSS does not conform,  
1246 the hotel, motel, or extended-stay hotel, in question, shall take immediate steps to bring the system back  
1247 into compliance.

1248 Sec. 18-96. Loitering and Juvenile Curfew.

1249 (a) All hotel, motel, or extended-stay hotel operators will advise patrons and guests verbally, upon  
1250 registration, and through posted signage that loitering is prohibited.

1251 (b) No person(s) shall loiter in or upon any hotel, motel, or extended-stay hotel parking lot, public  
1252 parking structure or in or around any building to include breezeways, stairwells or hotel, motel, or extended-  
1253 stay hotel rooms either on foot or in or upon any conveyance being driven or parked thereon, without the  
1254 permission of the owner, operator, keeper or proprietor or the hotel, motel, or extended-stay hotel.

1255 (c) The common areas of a hotel, motel, or extended-stay hotel shall be considered an "establishment"  
1256 as that term is defined in Chapter 16.

1257 (d) Chapter 16, of this Code, related to juvenile curfew and loitering shall be enforced in the common  
1258 areas of a hotel, motel, or extended-stay hotel.

1259 Sec. 18-97. Violations and penalties.

1260 (a) The objective of enforcement is compliance.

1261 (b) Any violation of the provisions of this article shall be punishable under Chapter 1 of this code. Any  
1262 person or entity violating the provisions of this article shall be guilty of a separate offense for each and  
1263 every day during which any violation of any provision of this article is committed, continued, or permitted  
1264 by that person and shall be punished accordingly.

1265 (c) The violation of the provisions of this article may be abated as a nuisance.

1266 (d) The violation of all provisions of this article by any person may be enjoined by instituting  
1267 appropriate proceedings for injunction in any court of competent jurisdiction. Such actions may be  
1268 maintained notwithstanding that other adequate remedies of law exist. Such actions may be instituted in the  
1269 name of the City of Stoncrest.

1270 (e) If a person is convicted of a violation of this article, the court shall impose a fine in accordance  
1271 with the following schedule:

1272 a. First conviction in a calendar year: a minimum of \$250;

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1273       b. Second conviction in a twelve (12) month period measured from the date of the first conviction: a  
1274       minimum of \$500;

1275       c. Third conviction in a twelve (12) month period measured from the date of the first conviction: a  
1276       minimum of \$750; and

1277       d. Fourth conviction in a twelve (12) month period measured from the date of the first conviction: a  
1278       minimum of \$1000.

1279       Sec. 18-98. Responsibility for enforcement.

1280       (a) City employees and their designees shall have the responsibility for the enforcement of this section  
1281       and shall have the authority to inspect establishments governed under this section during the hours in which  
1282       the premises are open for business.

1283       (b) These inspections shall be made for the purpose of verifying compliance with the requirements of  
1284       this section and state law.

1285       Sec. 18-99. Right of Entry.

1286       (a) When there is probable cause to make an inspection to enforce the provisions of this article, or  
1287       whenever there is reasonable cause to believe that there exists a condition in violation of this code, personnel  
1288       identified in Sec. 18-98 of this code are authorized to enter the structure or premises, including individual  
1289       rooms, at reasonable times to inspect or perform the duties imposed by this Code.

1290       (b) If such structure or premises is occupied, City personnel shall present credentials to the occupant  
1291       and request entry. If entry is refused by occupant, City personnel shall have recourse to the remedies  
1292       provided by law to secure entry. If such structure or premises is unoccupied, City personnel shall first make  
1293       a reasonable effort to locate the owner or other person having charge or control of the structure or premises  
1294       and request entry. If entry is refused by the owner or the person having charge or or control of the structure  
1295       refuses entry, City employees shall have recourse to all methods of entry allowed by law, and the owner  
1296       and responsible party shall be in violation of this article and subject to punishment under Chapter 1 of this  
1297       Code.

1298       Sec. 18-100. Unlawful operation declared nuisance.

1299       Any hotel, motel, or extended-stay hotel operated, conducted or maintained contrary to the provisions  
1300       of this article may be declared to be unlawful and a public nuisance. The City may, in addition, or in lieu  
1301       of all other remedies, commence actions or proceedings for abatement, removal or injunction thereof, in  
1302       the manner provided by state law and this Code.

1303

1304       ARTICLE X. - GAMBLING

1305       DIVISION 1. - GENERALLY

1306       Sec. 18-101. - Definitions.

1307       The following words, terms and phrases, when used in this article, shall have the meanings ascribed  
1308       to them in this section, except where the context clearly indicates a different meaning:

1309       "Pool" or "billiards" includes any game played on a table surrounded by an elastic ledge of cushions  
1310       with balls which are impelled by a cue. "Poolroom" means any public place where a person is permitted to  
1311       play the game of pool or billiards.

1312

1313       Sec. 18-102. - Applicability.



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

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

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

Sec. 18-104. - Gambling.

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

Sec. 18-105. - Manager.

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

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

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

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

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

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

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

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

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

**Section 2:**

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

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

Approved:

STATE OF GEORGIA  
COUNTY OF DEKALB  
CITY OF STONECREST

ORDINANCE 2018-

06-07

Jason Lary, Sr., Mayor

As to form:

City Attorney

Attest:

Brenda James, City Clerk