

AN ORDINANCE AMENDING ORDINANCE 2017-05-02 THE TEMPORARY
MORATORIUM IN REGARD TO ALCOHOLIC BEVERAGE LICENSES

WHEREAS, the City of Stonecrest, Georgia (the "City") was created by Senate Bill 208, passed in the Georgia General Assembly during the 2016 Session (the "City Charter") and subsequently confirmed by referendum;

WHEREAS, the City Charter provides for a two-year transition period for providing a time during which an orderly transition of various governmental functions from DeKalb County to the City of Stonecrest shall occur;

WHEREAS, pursuant to Section 6.03(f) of the City Charter, the City may, at any point during the transition period, without the necessity of any agreement by DeKalb County, commence to exercise its planning and zoning powers, provided that the City shall give the County notice of the date on which the City will assume the exercise of such powers;

WHEREAS, the City shall notify DeKalb County of its intent to commence exercising its planning and zoning powers within the territorial limits of the City;

WHEREAS, prior to assuming such responsibility, the Mayor and City Council intend to provide by ordinance for the procedures and requirements for planning and zoning within the territorial limits of the City;

WHEREAS, it being necessary for said zoning, land use and licensing purposes for the City to consider and adopt zoning and land development ordinances, to prepare application forms for zoning and land development related permits, and for said licenses to have procedures adopted for the processing of said applications;

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

WHEREAS, the Mayor and City Council intend to adopt ordinances governing the sale of alcohol within the territorial limits of the City of Stonecrest;

WHEREAS, the Mayor and City Council intend to adopt procedures and ordinances regarding the location and licensing of off the premise and on the premise consumption of alcohol;

WHEREAS, a reasonable amount of time is necessary to accomplish the foregoing;
WHEREAS, the City of Stonecrest has been vested with substantial powers, rights, and functions to generally regulate the use of real property and the sale of alcohol for the purposes of Maintaining health, morals, safety, security, peace, and the general welfare of the City;

WHEREAS, Georgia law recognizes that local governments may impose moratoria on zoning decisions and other development approvals where the interests of the public require such action and where such action is implemented in a manner which is reasonably necessary and not unduly oppressive; DeKalb County v. Townsend, 243 Ga. 80 (1979);

WHEREAS, the Mayor and City Council have found that the interests of the public necessitate the enactment of a moratorium for applications for zoning decisions and alcoholic beverage licenses within the City, by means which are reasonable and not unduly oppressive;

WHEREAS, the Mayor and City Council imposed a moratorium on May 8, 2017, by enacting Ordinance 2017-05-02;

WHEREAS, the Mayor and City Council wish to amend Ordinance 2017-05-02, in regard to pending applications for alcoholic beverage licenses and the renewal of existing alcoholic beverage licenses;

WHEREAS, the health, safety, welfare, aesthetics and morals of the citizens of the City of Stonecrest, Georgia shall be improved and protected by adoption and implementation of Ordinance 2017-05-02, as amended;

WHEREAS, the Mayor and City Council believe that the moratorium, as amended, will not deny property owners economically viable use of their property and will afford City officials and the City Council the time necessary to put into place reasonable regulations to further the aforesaid purposes.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and City Council for the City of Stonecrest as follows:

SECTION 1.

FINDINGS OF FACT

The City is in process of preparing its zoning ordinance and processes, staff, and procedures to administer it. It is necessary and in the public interest to delay, for a reasonable period, applications for, sign permits, alcoholic beverage licenses and zoning decisions during such period of preparation to ensure future activity related thereto is consistent with the long-term planning objectives of the City.

SECTION 11.

AMENDMENT OF MORATORIUM

1. Paragraph 1 of Section II of Ordinance 2017-05-02 is amended by adding the following:

The moratorium imposed on the application for, or the issuance of, alcoholic beverage licenses, shall not include any application for an alcoholic beverage license received by DeKalb County prior to May 8, 2017. The moratorium imposed on the application for, or the issuance of, alcoholic beverage licenses, shall not include any applications for a renewal of an existing alcoholic beverage issued by DeKalb County prior to May 8, 2017.

2. Paragraph 2 of Section II of Ordinance 2017-05-02 is amended by adding the following:

The moratorium imposed on the application for, or the issuance of, alcoholic beverage licenses, shall not include any application for an alcoholic beverage license received by DeKalb County prior to May 8, 2017. The moratorium imposed on the application for, or the issuance of, alcoholic beverage licenses, shall not include any applications for a renewal of an existing alcoholic beverage issued by DeKalb County prior to May 8, 2017.

3. 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.
4. It is hereby declared to be the intention of the Mayor and City Council that, to the greatest extent allowed by law, each 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.
5. 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

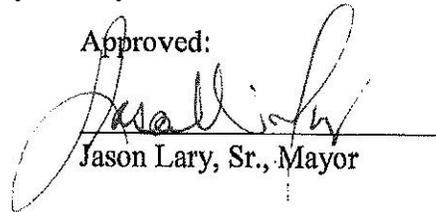
unenforceable any of the remaining phrases, clauses, sentences, paragraphs or sections of the Ordinance and that, to the greatest extent allowed by law, all remaining phrases, clauses, sentences, paragraphs and sections of the Ordinance shall remain valid, constitutional, enforceable, and of full force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

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

The within ordinance and moratorium shall become effective upon its adoption.

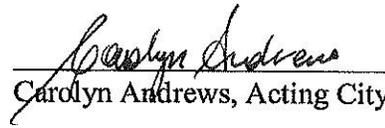
SO RESOLVED AND EFFECTIVE this the 15th day of May, 20i7.

Approved:



Jason Lary, Sr., Mayor

Attest:



Carolyn Andrews, Acting City Clerk