

STATE OF GEORGIA
COUNTY OF DEKALB
CITY OF STONECREST

ORDINANCE 2017- 11-04

AN ORDINANCE TO AMEND CHAPTER 4 - ALCOHOLIC BEVERAGES, OF THE CITY OF STONECREST, GEORGIA CODE OF ORDINANCES TO REQUIRE A FIVE MEMBER ALCOHOLIC BEVERAGE APPEAL BOARD

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

WHEREAS, Pursuant to Section 1.03 of the Charter of the City of Stonecrest, Georgia, the City of Stonecrest (the "City") has been vested with substantial powers, rights, and functions to generally regulate the use of real property and the sale of alcohol for the purposes of maintaining health, morals, safety, security, peace, and the general welfare of the City;

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

WHEREAS, the Mayor and Council wish to amend Chapter 4 of the Code of Ordinances for the City of Stonecrest, Georgia to provide for an Alcohol Review Board consisting of five Alcohol Review Hearing Officers.

NOW THEREFORE BE IT ORDAINED:

SECTION I.

Section 4.3.1., of Article III, of Chapter 4 of The Code of the City of Stonecrest, Georgia, is hereby amended to read as follows:

Sec. 4.3.1. – Alcohol Review Board establishment; composition

- (a) There is hereby established an alcohol review board (sometimes referred to as the "ARB") which shall have the responsibility for alcoholic beverage appeals. The ARB shall consist of five (5) alcohol review hearing officers selected from the available pool of individuals licensed to practice law in the State of Georgia, ~~one from each district in the City of Stonecrest,~~ who shall be appointed by the mayor and confirmed by the city council. Any member must comply with the requirements of Section 2.14 of the Charter of the City of Stonecrest and shall serve a term of two (2) years.

- (b) At the initial appointment of the ARB, to occur within 30 days of the passing of this ordinance, Mayor and Council shall direct three (3) of the five (5) members to serve a term of two (years). The remaining members shall serve a term of one (1) year.
- (c) Any member may be removed in accordance with Section 2.14 of the Charter of the City of Stonecrest.

SECTION II.

Section 4.3.2., of Article III, of Chapter 4 of The Code of the City of Stonecrest, Georgia, is hereby amended to read as follows:

Sec. 4.3.2. - Alcoholic beverage appeals.

The alcoholic beverage appeals shall be heard by one of the five the ARB alcohol review hearing officers, selected on a rotating basis, who shall have the following duties: ~~The alcoholic beverage appeals shall be heard by the ARB, who shall have the following duties:~~

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

SECTION III.

Section 4.3.3., of Article III, of Chapter 4 of The Code of the City of Stonecrest, Georgia, is hereby amended to read as follows:

Sec. 4.3.3. - Hearings.

- (a) No license or permit under this chapter shall be denied, suspended or revoked without the opportunity for a hearing as hereinafter provided.
- (b) The City Manager or his designee shall provide written notice to the applicant or licensee of the decision to deny, suspend or revoke the license or permit. Such written notification shall notify the applicant or licensee of the right of appeal. Any applicant or licensee who is aggrieved or adversely affected by a final action of the City Manager or his designee may have a review thereof by appeal to the alcoholic beverage appeals hearing officer. Such appeal shall be by written petition filed with the city clerk within fifteen (15) days from the final decision or action by the city.
- (c) A hearing shall be conducted on each appeal within thirty days of the date of filing of the appeal, unless a continuance of such date is agreed to by the appellant and the issuing department. The

appellant at such hearing shall have the right to be represented by an attorney at the expense of the appellant, and to present evidence, cross-examine witnesses, and have the hearing transcribed.

- (d) ~~A majority of the members of the ARB shall constitute a quorum. All findings of the ARB must be approved by a majority of the quorum. The City Manager shall develop additional hearing rules, which shall comply with the guidelines of due process set forth in O.C.G.A § 3-3-2(b).~~
- (e) The findings of the ARB shall be forwarded to the appellant and the City at the conclusion of the hearing.
- (f) The findings of the ARB shall be final unless appealed within thirty (30) days of the date of the findings by certiorari to the superior court of the county.

SECTION IV.

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

SECTION V.

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

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

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

SECTION VI.

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

SECTION VII.

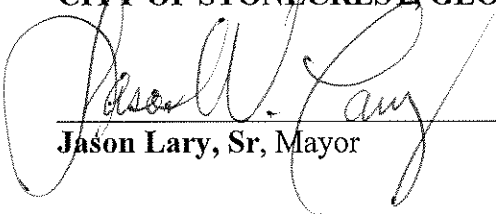
The effective date of this Amendment shall be the date of adoption unless otherwise stated herein.

SECTION VIII.

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.

ORDAINED this 20 day of November, 2017.

CITY OF STONECREST, GEORGIA



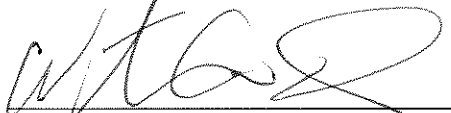
Jason Lary, Sr, Mayor

ATTEST:



Brenda James, Acting City Clerk
Interim

APPROVED AS TO FORM BY:



Thompson Kurrie, City Attorney
Winston Denmark