

STATE OF GEORGIA
COUNTY OF DEKALB
CITY OF STONECREST

ORDINANCE 2017- 09-01

**AN ORDINANCE TO ADOPT CHAPTER 1 – GENERAL PROVISIONS, OF THE
CODE OF ORDINANCES OF THE CITY OF STONECREST, GEORGIA**

WHEREAS, pursuant to Section 2.11(b) of the Charter of the City of Stonecrest, Georgia, in addition to all other powers conferred upon it by law, the city council shall have the authority to adopt and provide for the execution of such ordinances, resolutions, policies, rules, and regulations, not inconsistent with the charter and the Constitution and the laws of the State of Georgia, which it shall deem necessary, expedient, or helpful for the peace, good order, protection of life and property, health, welfare, sanitation, comfort, convenience, prosperity, or well-being of the inhabitants of the City of Stonecrest and may enforce such ordinances by imposing penalties for violation thereof; and

WHEREAS, the Mayor and City Council find it desirable and necessary, expedient, and helpful for the peace, good order, protection of life and property, health, welfare, sanitation, comfort, convenience, prosperity, or well-being of the inhabitants of the City of Stonecrest to approve and adopt Chapter 1 – *General Provisions* of the Code of Ordinances of the City of Stonecrest, Georgia, as provided herein.

SECTION 1:

BE IT ORDAINED by the Mayor and Council of the City of Stonecrest, Georgia, and it is hereby ordained by authority of same, Chapter 1 – *General Provisions* is hereby adopted as follows:

“Chapter 1 - GENERAL PROVISIONS

Sec. 1-1. - How Code designated and cited.

The ordinances embraced in this and the following chapters and sections shall constitute and be designated "The Code of the City of Stonecrest, Georgia," and may be so cited. This Code may also be referred to by the shortened form the "Stonecrest Code" or the "City Code".

Sec. 1-2. - Definitions and rules of construction.

The following definitions and rules of construction shall apply to all ordinances and resolutions of the city council unless the context requires otherwise:

Generally. The ordinary signification shall be applied to all words, except words of art, or words connected with a particular trade or subject matter when they shall have the signification attached to them by experts in such trade or with reference to such subject matter. In all interpretations the courts shall look diligently for the intention of the city council, keeping in view, at all times, the old law, the evil, and the

remedy. Grammatical errors shall not vitiate, and a transposition of words and clauses may be resorted to when the sentence or clause is without meaning as it stands.

Liberal construction; minimum requirements; overlapping provisions. All general provisions, terms, phrases and expressions contained in this Code shall be liberally construed in order that the true intent and meaning of the city council may be fully carried out. In the interpretation and application of any provision of this Code, they shall be held to be the minimum requirements adopted for the promotion of the public health, safety, comfort, convenience and general welfare. Where any provision of this Code imposes greater restrictions upon the subject matter than the other provisions of this Code, the provision imposing the greater restriction or regulation shall be deemed to be controlling.

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

Adequate. The term "adequate" means equal to what is required, suitable to the case or occasion, fully sufficient, proportionate, satisfactory.

Aforesaid. The term "aforesaid" usually means next before, unless the context requires a different signification.

All. The term "all" means everyone, or the whole number of particulars.

Also. The term "also" means "in like manner," "likewise," "in addition," "besides," "as well," "further," "too."

As soon as possible. The term "as soon as possible" means within a reasonable time, having due regard to all the circumstances.

City. The term "city" means the City of Stonecrest, Georgia.

City limits or corporate limits. The term "city limits" or "corporate limits" means the corporate limits (legal boundary) of the City.

Code. The term "Code" means The Code of the City of Stonecrest, Georgia.

Computation of time. Except as otherwise provided by time period computations specifically applying to other laws, when a period of time measured in days, weeks, months, years, or other measurements of time except hours is prescribed for the exercise of any privilege or the discharge of any duty, the first day shall not be counted but the last day shall be counted; and, if the last day falls on Saturday or Sunday, the party having such privilege or duty shall have through the following Monday to exercise the privilege or to discharge the duty. When the last day prescribed for such action falls on a public and legal holiday as set forth in state law, the party having the privilege or duty shall have through the next business day to exercise the privilege or to discharge the duty. When the period of time prescribed is less than seven days, intermediate Saturdays, Sundays, and legal holidays shall be excluded in the computation.

Conjunctions. Where a provision involves two or more items, conditions, provisions or events connected by the conjunction "and," "or" or "either...or," the conjunction shall be interpreted as following, provided in appropriate cases the terms "and" and "or" are interchangeable:

- (1) The term "and" indicates that all the connected items, conditions, provisions or events shall apply.
- (2) The term "or" indicates that the connected items, conditions, provisions or events may apply singly or in any combination.
- (3) The term "either...or" indicates that the connected items, conditions, provisions or events shall apply singly, but not in combination.

Council. The term "council" or "city council" means the five councilmembers and the mayor.

Councilmember. The term "councilmember" refers to the individual members of the city council, including the mayor.

County. The term "County" means DeKalb County, Georgia.

Delegation of authority. Whenever a provision appears requiring a city officer or city employee to do some act, it is to be construed to authorize the officer or employee to designate, delegate and authorize subordinates to perform the required act.

Department. The term "department" means an administrative department of city government. When appropriate, "department" means the director of the department or the director's designee.

Director. The term "director" refers to the director of an administrative department or the director's designee. The term is synonymous with department head.

Fee schedule. The term "fee schedule" means the official consolidated list of city fees and other charges adopted by the council that lists rates and fees for city services as determined from time to time by the city council. A copy of the city fee schedule is available in the office of the city clerk.

Finance department, department of finance. The terms "finance department" and "department of finance" are synonymous.

Finance director, director of finance. The terms "finance director" and "director of finance" are synonymous.

Fire Department. The term "fire department" shall refer to the County fire department which provides services to the city.

Following. The term "following" means next after.

Gender. A word importing the masculine gender only shall extend and be applied to females and to firms, partnerships and corporations as well as to males.

Governing authority, governing body. The terms "governing authority" or "governing body" mean the mayor and city council of the City of Stonecrest, Georgia.

Joint authority. A joint authority given to any number of persons, or officers, may be executed by a majority of them, unless it is otherwise declared.

Judge. The term "judge" means the municipal judge.

Keeper and proprietor. The terms "keeper" and "proprietor" mean and include persons, whether acting by themselves or as a servant, agent or employee.

May. The term "may" is to be construed as being permissive.

Month. The term "month" means a calendar month.

Must. The term "must" is to be construed as being mandatory.

Number. The singular and plural number include the other, unless expressly excluded.

O.C.G.A., state acts. The abbreviation "O.C.G.A." means the Official Code of Georgia Annotated, as amended. A reference to a state act, whether by year and act number, year, act number and page, year and page or short title, is a reference to such act as amended.

Oath. The term "oath" includes an affirmation.

Officials, employees, boards, commissions, or other agencies. Whenever reference is made to officials, employees, boards, commissions or other agencies by title only, the reference refers to the officials, employees, boards, commissions or other agencies of the city, or other political subdivision when acting under an intergovernmental agreement represents the city.

Ordinance. The term "ordinance" means a legislative act of the municipal governing body of a general and permanent nature.

Owner. The term "owner," applied to a building or land, includes any part owner, joint owner, tenant in common, tenant in partnership or joint tenant of the whole or of a part of the building or land.

Person. The term "person" includes any association, club, society, firm, corporation, partnership and body politic and corporate as well as an individual.

Personal property. The term "personal property" includes every species of property except real property.

Police. The term "police" means the police department of the County which is serving as the police force for the city, until such time as the city has its own police department, unless specified otherwise in the Code.

Preceding. The term "preceding" means next before.

Property. The term "property" includes real and personal property.

Public place. The term "public place" includes any place that the public is invited or permitted to go or congregate.

Real property. The term "real property" includes lands, tenements and hereditaments.

Resolution. The term "resolution" means a legislative act of the city governing authority of a special or temporary character.

Shall. The term "shall" is to be construed as being mandatory.

Sidewalk. The term "sidewalk" means any portion of a street between the curblin and the adjacent property line, intended for the use of pedestrians, excluding parkways.

Signature or subscription. A "signature" or "subscription" includes the mark of an illiterate or infirm person.

State. The term "state" means the State of Georgia.

Street or road. The term "street" or "road" includes any street, avenue, boulevard, road, alley, lane, viaduct and any other public highway in the city, including, but not limited to, the paved or improved surfaces thereof.

Tenant, occupant. The term "tenant" or "occupant," applied to a building or land, includes any person holding a written or oral lease of, or who occupies, the whole or a part of a building or land, either alone or with others.

Tense. Words used in the past or present tense include the future as well as the past and present.

Until a certain day. The term "until a certain day" includes all of such day.

Week. The term "week" means seven days.

Whereas. The term "whereas" means "considering that."

Will. The term "will" is to be construed as being mandatory.

Writing. The term "writing" includes printing and all numerals.

Year. The term "year" means a calendar year.

Sec. 1-3. - Prohibition of sexist connotations.

It is the intent of the city council that all city ordinances and resolutions shall be interpreted in an equal and nondiscriminatory manner to persons of both the male and female sexes. In furtherance of that intent, any term or phrase having a sexist connotation which may be contained in any existing city ordinance or resolution shall be interpreted and applied in a sex-neutral manner. Future amendments and revisions to city resolutions and ordinances shall likewise be written, interpreted and applied in a sex-neutral manner.

Sec. 1-4. - Catchlines of sections, history notes and references in Code.

- (a) The catchlines of the several sections of this Code in boldface type are intended as mere catchwords to indicate the contents of the sections and shall not be deemed or taken to be titles of such sections, nor as any part of such sections nor, unless expressly so provided, shall they be so deemed when any of such sections, including the catchlines, are amended or reenacted.
- (b) Any history or source notes appearing in parentheses after sections in this Code are not intended to have any legal effect but are merely intended to indicate the source of matter contained in the section. Cross references and state law references which may appear after sections or subsections of this Code or which otherwise appear in footnote form are provided for the convenience of the user of this Code and have no legal effect.
- (c) All references to chapters, articles or sections are to the chapters, articles and sections of this Code unless otherwise specified.

Sec. 1-5. - Territorial applicability.

Except as specifically provided otherwise, this Code only applies in the incorporated areas of the city.

Sec. 1-6. - Effect of repeal of ordinance.

- (a) The repeal of an ordinance shall not revive any ordinance in force before or at the time the ordinance repealed took effect.
- (b) The repeal of an ordinance does not affect any punishment or penalty incurred before the repeal took effect, or any suit, prosecution or proceeding pending at the time of the repeal for an offense committed under the repealed ordinance.

Sec. 1-7. - Amendments; effect of new ordinances; amendatory language.

- (a) All ordinances adopted subsequent to this Code that amend, repeal or in any way affect this Code may be numbered in accordance with the numbering system of this Code and printed for inclusion herein. In the case of repealed chapters, sections and subsections or any part thereof, by subsequent ordinances and resolutions, such repealed portions may be excluded from the Code by omission from repealed pages affected thereby. The subsequent ordinances and resolutions as numbered and printed or omitted, in the case of repeal, shall be prima facie evidence of such subsequent ordinances and resolutions until such time that this Code and subsequent ordinances numbered or omitted are readopted as a new Code.
- (b) Amendments to any of the provisions of this Code may be made by amending such provisions by specific reference to the section number of this Code in the following language: "Section _____ of The Code of the City of Stonecrest, Georgia, is hereby amended to read as follows:" The new provisions may then be set out in full as desired.
- (c) If a new section not heretofore existing in the Code is to be added, the following language may be used: "The Code of the City of Stonecrest, Georgia, is hereby amended by adding a section (or chapter, article, division or subdivision, as appropriate) numbered _____, that reads as follows:" The new material may then be set out in full as desired.

- (d) All sections, subdivisions, divisions, articles or chapters desired to be repealed should be specifically repealed by section, subdivision, division, article or chapter number, as the case may be.

Sec. 1-8. - Supplementation of Code.

- (a) Supplements to this Code shall be prepared and printed whenever authorized or directed by the city council or its designee. A supplement to the Code shall include all substantive permanent and general parts of ordinances adopted during the period covered by the supplement and all changes made thereby in the Code. The pages of a supplement shall be so numbered that they will fit properly into the Code and will, where necessary, replace pages which have become obsolete or partially obsolete, and the new pages shall be so prepared that, when they have been inserted, the Code will be current through the date of the adoption of the latest ordinance included in the supplement.
- (b) In preparing a supplement to this Code, all portions of the Code which have been repealed shall be excluded from the Code by the omission thereof from reprinted pages.
- (c) When preparing a supplement to this Code, the person authorized to prepare the supplement may make formal, nonsubstantive changes in ordinances and parts of ordinances included in the supplement, insofar as it is necessary to do so to embody them into a unified code. For example, the person may:
 - (1) Organize the ordinance material into appropriate subdivisions;
 - (2) Provide appropriate catchlines, headings and titles for sections and other subdivisions of the Code printed in the supplement, and make changes in such catchlines, headings and titles;
 - (3) Assign appropriate numbers to sections and other subdivisions to be inserted in the Code and, where necessary to accommodate new material, change existing section or other subdivision numbers;
 - (4) Change the words "this ordinance" or words of the same meaning to "this chapter," "this article," "this division," etc., as the case may be, or to "sections _____ to _____" (inserting section numbers to indicate the sections of the Code which embody the substantive sections of the ordinance incorporated into the Code); and
 - (5) Make other nonsubstantive changes necessary to preserve the original meaning of ordinance sections inserted into the Code.
- (d) In no case shall the person make any change in the meaning or effect of ordinance material included in the supplement or already embodied in the Code.

Sec. 1-9. - Severability.

It is hereby declared to be the intention of the city council that the sections, paragraphs, sentences, clauses and phrases of this Code are severable, and if any phrase, clause, sentence, paragraph or section of this Code shall be declared unconstitutional, invalid or otherwise unenforceable by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality, invalidity or unenforceability shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Code, since the same would have been enacted by the city council without the incorporation in this Code of any such unconstitutional, invalid, or unenforceable phrase, clause, sentence, paragraph or section.

Sec. 1-10. - Altering Code.

- (a) It is unlawful for any person in the city to change or amend by additions or deletions, any part or portion of the official version of this Code, or to insert or delete pages or portions thereof, or to alter or tamper with the official version of this Code in any manner whatsoever which will cause the law of the city to be misrepresented thereby.
- (b) It shall be unlawful for any person to deface, mutilate, or in any manner alter any other official document or record of the municipal government.

Sec. 1-11. - General penalty; continuing violations.

(a) In this section, the term "violation of this Code" or "violation of any such provision of this Code or any such ordinance" means:

- (1) Doing an act that is prohibited or made or declared unlawful, an offense or a violation or a misdemeanor by ordinance, by statute adopted by reference in this Code, by state rule or regulation adopted by reference in this Code, or by rule or regulation authorized by ordinance;
- (2) Failure to perform an act that is required to be performed by ordinance, by statute adopted by reference in this Code, by state rule or regulation adopted by reference in this Code or by rule or regulation authorized by ordinance; or
- (3) Failure to perform an act if the failure is prohibited or is made or declared a violation or a misdemeanor or an offense or unlawful by ordinance or by statute adopted by reference in this Code, by state rule or regulation adopted by reference in this Code, or by rule or regulation authorized by ordinance.

(b) In this section, the term "violation of this Code" or "violation of any such provision of this Code or any such ordinance" does not include the failure of a city officer or city employee to perform an official duty, unless it is provided that failure to perform the duty is to be punished as provided in this section or it is clear from the text that it is the intent to impose the penalty provided for in this section upon the officer or employee.

(c) Except as otherwise provided:

- (1) A person convicted of a violation of this Code shall be punished by a fine not exceeding \$1,000.00, imprisonment for a term not exceeding 120 days or any combination thereof.
- (2) With respect to violations of this Code that are continuous with respect to time, each day the violation continues is a separate offense.
- (3) With respect to violations of this Code that are not continuous with respect to time, each day the violation continues is a separate offense.

(d) All fines shall be paid into the city treasury.

(e) The imposition of a penalty does not prevent revocation or suspension of any city issued registration, business occupation tax certificate, license, permit or franchise or other administrative sanctions. So long as a fine remains unpaid and outstanding, and not the subject of any appeal, an application for any city issued registration, business occupation tax certificate, license, permit, franchise, variance, sketch plat, amendment to the comprehensive plan land use map, amendment to the official zoning map, rezoning, special administrative permit, or special land use permit may not be accepted by any city employee or issued by any city employee, official, board, commission or other city or county entity if such application relates to the person who owes the fine as reflected in the municipal court records or the land on which the violation has been shown to exist.

- (f) Violations of this Code that are continuous with respect to time are a public nuisance and may be abated by injunctive or other equitable relief and by such other means as are provided by law. The imposition of a penalty does not prevent equitable relief.

Sec. 1-12. - Matters not affected by Code.

Nothing in this Code or the ordinance adopting this Code shall affect:

- (1) Any offense or act committed or done or any penalty or forfeiture incurred or any contract or right established or accruing before the effective date of this Code.
- (2) Any ordinance promising or guaranteeing the payment of money for the city or authorizing the issuance of any bonds for the city, or any evidence of the city's indebtedness, or any contract or obligation assumed by the city.
- (3) Any right or franchise granted by the city to any person.
- (4) Adopting or amending the comprehensive plan.
- (5) Any ordinance dedicating, naming, defining, establishing, locating, relocating, opening, paving, widening, vacating, etc., any street or public way in the city.
- (6) Any appropriation or ordinance authorizing appropriations or gifts.
- (7) Any legislation providing for local improvements or assessing taxes therefor.
- (8) Any ordinance dedicating, accepting or vacating any plat or subdivision.
- (9) Any ordinance rezoning property or otherwise pertaining to zoning.
- (10) Any ordinance providing for salaries or compensation of city officers or employees not in this Code.
- (11) Any ordinance approving any appropriation or budget.
- (12) The administrative ordinances or resolutions of the city not in conflict or inconsistent with the provisions of this Code.
- (13) Any ordinance adopted for purposes that have been consummated.
- (14) Any ordinance that is temporary, although general in nature.
- (15) Any ordinance that is special, although permanent in nature.
- (16) Any ordinance levying, imposing or otherwise relating to taxes.
- (17) Any ordinance amending any act enacted by the general assembly of the State.

Sec. 1-13. - Code does not affect prior offenses, rights, etc.

- (a) Nothing in this Code or the ordinance adopting this Code shall affect any offense or act committed or done, or any penalty or forfeiture incurred, or any contract or right established or accruing before the effective date of this Code.
- (b) The adoption of this Code shall not be interpreted as authorizing or permitting any use or the continuance of any use of a structure or premises in violation of any ordinance in effect on the date of adoption of this Code.

Sec. 1-14. – Rates, charges and fees established.

- (a) Unless otherwise provided for, all rates, charges, or fees necessary for the administration and enforcement of the provisions of this Code shall be as currently established or as hereafter adopted by motion, resolution or ordinance of the city council, from time to time. Any rates, charges, or fees established by the city pursuant to the regulations or requirement established herein may be changed from time to time by the city council, and such changes shall both be considered an amendment to this Code.
- (b) Whenever any provision of this Code provides that a rate, charge, or fee shall be established by the city council, from time to time, and the amount of such rate, charge, or fee is not expressed in this Code in any dollar amount, then the amount of such rate, charge, or fee shall be the most recent and latest amount established, set or fixed by the city council by ordinance, resolution or motion.

Sec. 1-15. Provisions considered as continuations of existing ordinances.

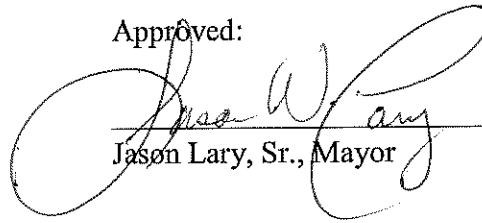
The provisions appearing in this Code, insofar as they are the same as those of ordinances and resolutions existing at the time of adoption of this Code, shall be considered as continuations thereof and not as new enactments.”

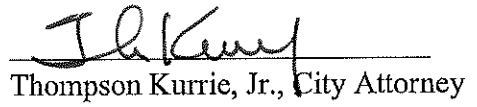
SECTION 2.

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. This 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.

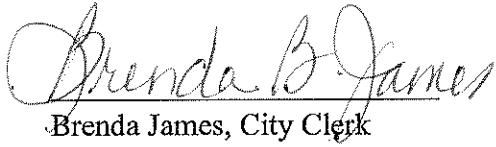
SO ORDAINED AND EFFECTIVE this the 18 day of September, 2017.

Approved:


Jason Lary, Sr., Mayor


Thompson Kurrie, Jr., City Attorney

Attest:


Brenda James, City Clerk