

STATE OF GEORGIA

DEKALB COUNTY

CITY OF STONECREST

ORDINANCE NO. ____ - _____

AN ORDINANCE TO AMEND CHAPTER 2 (ADMINISTRATION), CHAPTER 4 (ALCOHOLIC BEVERAGES), CHAPTER 5 (ANIMAL CONTROL), CHAPTER 7 (BUILDINGS AND CONSTRUCTION), CHAPTER 9 (MUNICIPAL COURT), CHAPTER 14 (LAND DEVELOPMENT), CHAPTER 15 (LICENSES, PERMITS AND MISCELLANEOUS BUSINESS REGULATIONS), CHAPTER 17 (MOTOR VEHICLE REGULATIONS), CHAPTER 21 (SIGNS), CHAPTER 22.5 (STORM SEWER ILLICIT DISCHARGE AND ILLEGAL CONNECTION), CHAPTER 23 (STREETS AND SIDEWALKS) AND CHAPTER 25 (WATER, SEWERS AND SEWAGE DISPOSAL) IN THE CITY OF STONECREST, GEORGIA CODE OF ORDINANCES, TO REFLECT AMENDMENTS MADE TO THE OFFICIAL CODE OF GEORGIA ANNOTATED BY THE GEORGIA GENERAL ASSEMBLY IN HOUSE BILL 916; TO PROVIDE SEVERABILITY; TO PROVIDE A PENALTY; TO PROVIDE FOR REPEAL OF CONFLICTING ORDINANCES; TO PROVIDE FOR AN ADOPTION AND EFFECTIVE DATE; AND TO PROVIDE FOR OTHER LAWFUL PURPOSES.

WHEREAS, the duly elected governing body of the City of Stonecrest (“City”) is the Mayor and City Council thereof; and

WHEREAS, the City Council shall have the authority to adopt and provide for the execution of such ordinances, resolutions, policies, rules, and regulations, 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 desire to amend the Stonecrest Code of Ordinances (“Code of Ordinances” or “City Code”) to reflect changes relating to appeal and error, so as to provide for a unified procedure for appealing decisions of a lower judicatory to a superior or state court; and

WHEREAS, said changes were reflected in the Official Code of Georgia Annotated passed by the Georgia General Assembly in House Bill 916 (“HB 916”); and

WHEREAS, amendments to the Code of Ordinances as a result of changes implemented in HB 916 impact various portions of the City Code; and

WHEREAS, the health, safety, and welfare of the citizens of the city will be positively impacted by the adoption of this Ordinance.

BE IT AND IT IS HEREBY ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF STONECREST, GEORGIA, and by the authority thereof:

Section 1. The Code of Ordinances of the City of Stonecrest, Georgia is hereby amended within various chapters and article set forth in Exhibit A attached hereto and made a part hereof by reference.

Section 2. That text added to current law appears in **red and bold**. Text removed from current law appears as **red, bold and strikethrough**.

Section 3. The preamble of this Ordinance shall be considered to be and is hereby incorporated by reference as if fully set out herein.

Section 4. (a) It is hereby declared to be the intention of the Mayor and Council that all sections, paragraphs, sentences, clauses, and phrases of this Ordinance 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 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 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.

(c) 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 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 section 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.

Section 5. The City Clerk, with the concurrence of the City Attorney, is authorized to correct any scrivener's errors found in this Ordinance, including its exhibits, as enacted.

Section 6. All ordinances and parts of ordinances in conflict herewith are hereby expressly repealed.

Section 7. The Ordinance shall be codified in a manner consistent with the laws of the

State of Georgia and the City of Stonecrest.

Section 8. It is the intention of the governing body, and it is hereby ordained that the provisions of this Ordinance shall become and be made part of the Code of Ordinances, City of Stonecrest, Georgia.

ORDAINED this _____ day of _____, 2023.

CITY OF STONECREST, GEORGIA

Jazzmin Cobble, Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney

EXHIBIT A

Chapter 2 - ADMINISTRATION

ARTICLE X. - CODE OF ETHICS

Sec. 2-391. Right to appeal.

An appeal of any adverse decision of the mayor and council rendered under this article shall be commenced by filing a petition for ~~a writ of certiorari~~ review in the Superior Court of DeKalb County as provided by law.

Chapter 4 - ALCOHOLIC BEVERAGES

ARTICLE III. - ALCOHOL REVIEW BOARD

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 15 days from the final decision or action by the city.
- (c) A hearing shall be conducted on each appeal within 30 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) 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 30 days of the date of the findings by ~~certiorari~~ **petition of review** to the superior court of the county.

(Ord. No. 2017-06-05, § 4.3.3, 6-5-2017; Ord. No. 2017-11-04, § III, 11-20-2017)

Chapter 5 - ANIMAL CONTROL

Sec. 5-10. Dangerous and vicious animals.

- (a) Pursuant to the City's Charter, section 1.03(b)(1), if the police chief learns of the existence of a dangerous animal or vicious animal, the police chief, or his designee, which may include county animal control officers, shall then cause a summons to be issued requiring the owner of the animal to appear before a judge of the City of Stonecrest Municipal Court or DeKalb County Magistrate Court, as specified below, at a date and time certain no earlier than 15 days after service, to conduct a hearing as to the appropriate classification of the animal. The summons so issued shall be served on the owner personally. The police chief and/or county animal control officers shall also immediately impound the animal believed to be dangerous or vicious.

- (b) The court shall determine after a hearing if the animal is to be classified as a dangerous animal or vicious animal. In making its findings in this regard, the court shall enter a written order notifying the animal's owner and the police chief of its decision. In addition to a finding that the animal is to be classified as provided herein, the court may also order that the boarding and cost of confinement of the animal is to be paid by the owner, and such other restitution as appropriate, under the facts developed at the hearing.
- (c) The appeal of any order of the court concerning the classification of an animal as vicious or dangerous shall be by petition for ~~writ of certiorari~~ review to the Superior Court of DeKalb County.
- (d) If the court classifies the animal as dangerous or vicious, and no appeal is filed, the owner shall be required to obtain from the police chief an annual certificate of registration in compliance with the requirements of this chapter. No vicious or dangerous animal shall be released to its owners until such certificate is issued by the police chief or designee.
- (e) If the owner fails to obtain the certificate of registration within 30 days of the issuance of the order classifying the animal as dangerous or vicious, the animal will be euthanized no earlier than 35 days after the issuance of the order so classifying the animal. The animal shall not be euthanized if the owner appeals the court's classification order by petition for ~~writ of certiorari~~ review to the Superior Court of DeKalb County within 30 days after the order of classification. During the pendency of the appeal and any further appeals, the animal shall not be euthanized, provided that in the event the classification order is upheld at the conclusion of all appeals, the animal shall be euthanized no earlier than 35 days after the final order upholding the classification if the owner does not obtain the required certificate of registration within 30 days after the date of the final order of court upholding the classification order. During the pendency of any such appeal by the owner, the animal shall not be released to its owner until the appeal is concluded and the certificate of registration is issued to the owner, if applicable. In such event, the animal will be housed at a licensed veterinarian's office or a licensed kennel and the cost of such detention shall be borne by the owner of the animal. In the event the city appeals the court's order, the animal shall not be released to its owner until the appeal is concluded and the certificate of registration is issued to the owner, if applicable. In the event of an appeal by the city, the animal will be housed in the animal service center and the cost of such detention shall be borne by the city.

Chapter 7 - BUILDINGS AND CONSTRUCTION

ARTICLE III. - ADMINISTRATION AND ENFORCEMENT

DIVISION 2. - CONSTRUCTION BOARD OF APPEALS

Sec. 7-87. Membership; variances, terms of office; decision-making powers.

- (a) *Appointment.* There is established a Construction Board of Appeals (Board), which shall consist of five members, appointed by the mayor and subject to confirmation by city council.
- (b) *Qualifications of members.* All members of the Board shall be residents of the city. All members of the Board shall have experience in the building industry. The members of the Board shall have applicable experience in drainage and structural issues in residential-home-design or construction, heating ventilation and air conditioning, electrical installations and plumbing. Members of the Board shall hold no other city office, appointed position within the city or any other city compensated position.
- (c) *Filling board vacancies generally.* Any vacancy on the Board shall be filled in accordance with the original appointing procedure for the vacant position. Any newly appointed member shall serve for the remainder of the unexpired term.
- (d) *Initial terms of members.* The five Board members who are appointed by virtue hereof shall hold initial terms of office which shall be staggered as follows: Two initial Board members shall be designated to serve a term

of two years and three initial Board members shall be designated to serve a term of four years. After expiration of any term thereafter, each Board member shall serve a term of four years.

- (e) *Terms of Board members.* Terms of each Board member shall absolutely expire on December 31 of the Board member's term, regardless whether a successor has been appointed to the Board member's position.
- (f) *Successive terms.* Members of the Board may be reappointed to successive terms, but in no event shall a member be permitted to serve more than eight consecutive years.
- (g) *Organization, officers and rules.* The Board shall elect a chair, vice-chair and secretary. The persons so elected shall serve in these capacities for a term of one year. No person may serve in any of these capacities for more than three consecutive years. The vice-chair will preside at the meetings of the Board in the chair's absence. The Board shall determine its procedural rules and regulations, and otherwise take such action as is appropriate for the management of the affairs committed to its supervision. The Board's rules and regulations shall be consistent with this chapter and necessary to carry out the provisions of this chapter.
- (h) *Quorum.* Three members of the Board shall constitute a quorum at any meeting and a vote of three voting members shall be required to enable the Board to act.
- (i) *Meeting accommodations and staff support.* The city shall provide the Board with suitable office space, meeting accommodations and clerical support, as the city shall deem appropriate and necessary.
- (j) *Compensation for Board members.* The Board members shall be volunteers and shall not be compensated, except that the city may reimburse the Board members for necessary expenses incurred by the Board members in the performances of their official duties.
- (k) *Removal at will.* The mayor and city council shall have authority to remove any member of the Construction Board of Appeals, at will, without cause.
- (l) *Powers and duties.* The Board shall have the following powers:
 - (1) To hear appeals of decisions and interpretations of the Building Official;
 - (2) To hear appeals of the Building Official's decision related to the use of alternative materials, designs, methods of construction, equipment and appliances;
 - (3) To hear appeals of the Building Official's decision related to unsafe conditions as regulated in section 7-63;
- (m) *Application forms; filing of applications; application fees.* Applications for appeals and variances shall be filed on forms provided by the city and shall not be considered authorized or accepted unless complete in all respects, including the payment of any application fees. Application fees shall be established by the city council.
- (n) *Appeals of the Building Official's decisions.*
 - (1) Notice of appeal of a decision by the Building Official to the Board shall be in writing and filed with the director within 30 calendar days after the Building Official's decision is rendered. Appeals shall be on a form provided by the director.
 - (2) An appeal shall be sustained only upon an express written finding by the Board that the Building Official's action was based on an erroneous finding of a material fact, or that the Building Official acted in an arbitrary manner. In exercising its powers, the Board may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from, and to that end shall have all the powers of the Building Official from whom the appeal was taken and may issue or direct the issuance of a permit, provided all requirements imposed by all applicable laws are met. The Board may also remand any appeal for the receipt of additional information.
 - (3) In the case of a building, structure or service system which, in the opinion of the Building Official, constitutes an unsafe condition as that term is used in section 7-63, the Building Official may, in the

decision or order, limit the time for the filing of such appeals to not less than two days and the director may request expedited review by the Board of the appeal.

- (4) If the Building Official's decisions results in a revocation or denial of the issuance of any permit or certificate authorized by this chapter, the affected applicant or permittee may request, and shall be allowed, to meet with the director within two business days after the initial issuance of such order or decision. At such meeting the affected applicant or permittee shall be allowed to present any evidence or testimony to the director that the applicant deems appropriate. If such a meeting is not requested or the director does not alter the decision to revoke or deny the issuance of any permit or certificate, then the director's decision becomes final. During the pendency of any subsequent appeal to the Board, the notice of appeal shall not stay enforcement of the director's decision and the applicant or permittee may not take any action, perform any act or occupy any structure that contradicts the director's revocation or denial decision in this regard.
- (o) *Procedures of the Board.*
- (1) *Hearings open to public.* All hearings of the Board shall be open to the public and the agenda shall be made available at least two business days prior to the meeting of the Board. Matters not placed on the agenda in compliance with this section shall not be heard by the Board, except for appeals involving a structure or service system that, in the opinion of the director, is unsafe, unsanitary or uninhabitable. The Board shall meet at least once a year and whenever an action is requested before the board, though not more often than every 30 days.
 - (2) *Decisions.* The Board shall, in every case of an appeal of a decision or interpretation of the director or a variance request, reach a final decision within 30 calendar days from the date of the final hearing. Each decision of the Board shall be in writing and shall include the basis for the decision. Every decision shall be promptly file-stamped in the office of the development department and shall be available for public inspection. A copy of the decision shall be delivered by mail at the address in the notice of appeal or application for variance to the person who filed the appeal or request for a variance.
- (p) *Appeals from decisions of the Construction Board of Appeals.*
- (1) *Method of appeal.* Any person aggrieved by a final decision of the Board may seek review of such decision by petitioning the superior court of the county for a ~~writ of certiorari~~ **petition of review** in accordance with state law.
 - (2) *Notice to Board.* In any such petition, the Board shall be designated the respondent ~~in certiorari~~ and the city, along with any other party required by law to be named, shall be named as the defendants ~~in certiorari~~. The city clerk and the secretary of the Board shall be authorized to acknowledge service of a copy of the petition and writ for the Board as respondent. Service upon the city as defendant shall be as otherwise provided by state law.

Chapter 9 - MUNICIPAL COURT

ARTICLE II. - TRIALS AND JUDGMENTS

Sec. 9-41. Appeals.

Unless specified elsewhere in the Code or Charter, all appeals from decisions and judgments of the Municipal Court in criminal and ordinance violation cases shall be appealable, by ~~writ of certiorari~~ **petition of review**, to the Superior Court of the County under the laws of the state regulating the granting and issuance of ~~writs of certiorari~~ **petition of review**.

Chapter 14 - LAND DEVELOPMENT

ARTICLE II. - ENVIRONMENTAL CONTROL

Sec. 14-35. Variances.

- (a) Except as further limited herein, an applicant may request a variance from the terms of the requirements of section 14-38, articles V-VIII of this chapter, and otherwise as permitted in this chapter. The Zoning Board of Appeals shall have the power to hear all variance requests. The Zoning Board of Appeals shall have no power to consider or to grant variances which are the responsibility of the Director of the EPD pursuant to O.C.G.A. § 12-2-8 and other relevant state statutes and regulations. Where variances involving the same project are requested from both the Director of the EPD and the Zoning Board of Appeals, the Zoning Board of Appeals shall take no action on any such request for variance until the Director of the EPD grants the variance or otherwise approves the request pending before the EPD. Receiving a variance from the Director of the EPD and/or the Zoning Board of Appeals does not obligate the Director to permit the project to proceed if the project does not also meet all the other requirements of this chapter. No variance from the provisions of this chapter shall be authorized except as specifically authorized in this section or specifically authorized in another section of this chapter.
- (b) Applications for variances authorized in subsection (a) of this section shall be made in writing to the Director and shall contain all of those materials and documents required by the Director that are necessary to demonstrate that said request meets the criteria for granting variances. The Director must review the variance request and make a recommendation of approval or denial to the Zoning Board of Appeals. The applications shall be processed in accordance with the calendar adopted for variance decisions under chapter 27.
- (c) In considering a request for a variance to the terms of this article, article V, VI, VII, or VIII of this chapter, authorized in subsection (a) of this section, the Zoning Board of Appeals shall use all of the following criteria:
 - (1) The request, while not strictly meeting the requirements of this chapter, will in the judgment of the Zoning Board of Appeals be at least as protective of natural resources and the environment as would a plan which met the strict application of these requirements. In making such a judgment, the Zoning Board of Appeals shall examine whether the request will be at least as protective of the natural resources and the environment with regard to the following factors:
 - (i) Stream bank or soil stabilization;
 - (ii) Trapping of sediment in surface runoff;
 - (iii) Removal of nutrients, heavy metals, pesticides and other pollutants from surface runoff;
 - (iv) Terrestrial habitat, food chain, and migration corridor;
 - (v) Buffering of flood flows;
 - (vi) Infiltration of surface runoff;
 - (vii) Noise and visual buffers;
 - (viii) Downstream water quality; and
 - (ix) Impact on threatened and endangered species, as those species are designated by law or federal or state regulation.
 - (2) By reason of exceptional topographic or other relevant physical conditions of the subject property that were not created by the owner or applicant, there is no opportunity for any development under any design configuration unless a variance is granted.

- (3) The request does not go beyond the minimum necessary to afford relief and does not constitute a grant of special privileges inconsistent with the limitations upon other properties that are similarly situated.
- (4) The grant of the variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the area in which the property is located.
- (5) The literal interpretation and strict application of the applicable provisions or requirements of this chapter would cause an extreme hardship, provided the hardship was not created by the owner.
- (d) *Time and notice of hearing.* The Zoning Board of Appeals shall conduct a hearing in accordance with the procedures in article 7 of chapter 27.
- (e) All appeals of final decisions of the Zoning Board of Appeals on variances shall be as follows:
 - (1) Any party aggrieved by a final decision of the Zoning Board of Appeals may seek review of such decision by petitioning the Superior Court of DeKalb County for a ~~writ of certiorari~~ petition of review, in accordance with State law.
 - (2) In any such petition filed, the Zoning Board of Appeals shall be designated the respondent ~~in certiorari~~ and the City of Stonecrest shall be designated the defendant ~~in certiorari~~. Service upon the City as defendant shall be as otherwise provided by law.

Sec. 14-36. Appeals from administrative officials.

- (a) *Basis for appeal.* Whenever it is alleged by the applicant that there is error in any final order, requirement, or final decision made by an administrative official based on or made in the interpretation or enforcement of this chapter, the applicant, or any person or entity aggrieved by said administrative decision, shall have the right to appeal said final order, requirement or decision to the Zoning Board of Appeals.
- (b) *Initiation of appeal.* Appeals shall be made by filing with the Director an application for appeal specifying the grounds thereof, within 15 days after the action, determination, decision or order appealed from was taken.
- (c) *Appeal stays all legal proceedings.* An appeal shall stay all legal proceedings in furtherance of the action appealed from unless the official from whom the appeal is taken certifies to the Zoning Board of Appeals, after notice of appeal has been filed, that by reasons of facts stated in the certificate, a stay would, in that official's opinion, cause imminent peril to life and property.
- (d) *Time and notice of hearing.* The Zoning Board of Appeals shall conduct a hearing in accordance with the procedures in article 7 of chapter 27.
- (e) All appeals of final decisions of the Zoning Board of Appeals under the provisions of this article shall be as follows:
 - (1) Any party aggrieved by a final decision of the Zoning Board of Appeals may seek review of such decision by petitioning the Superior Court of DeKalb County for a ~~writ of certiorari~~ petition of review, in accordance with State law.
 - (2) In any such petition filed, the Zoning Board of Appeals shall be designated the respondent. ~~in certiorari~~ and the City of Stonecrest shall be designated the defendant ~~in certiorari~~. Service upon the City as defendant shall be as otherwise provided by law.

ARTICLE III. - SUBDIVISIONS

DIVISION 2. - PLAT APPROVAL PROCEDURE

Part D. - Final Plat

Sec. 14-125. Appeal of final plat decision.

The decision of the mayor to approve or disapprove the final plat may be appealed only by a petition for ~~writ of certiorari~~ **petition of review** to the Superior Court of DeKalb County.

ARTICLE IV. - FLOODPLAIN MANAGEMENT

DIVISION 6. - VARIANCE PROCEDURE

Sec. 14-444. Variance procedure.

- (a) The zoning board of appeals, as established by the city, shall hear and decide requests for appeals or requests for variances from the requirements of this article.
- (b) The zoning board of appeals shall hear and decide appeals when it is alleged an error in any requirement, decision, or determination is made by the floodplain coordinator in the enforcement or administration of this article. No action will be taken under the terms of this division unless such relief can be granted without substantial detriment to the public good and without substantial impairment of the intent and purpose of this chapter.
- (c) In reviewing such requests, the zoning board of appeals shall consider all technical evaluations, relevant factors, and all standards specified in this and other sections of this article.
- (d) Applications for variances must be submitted in writing to the director in accordance with chapter 27.
- (e) Applications for variance shall be heard at a public hearing by the zoning board of appeals pursuant to chapter 27.
- (f) A variance shall only be issued when all of the following conditions are present:
 - (1) A finding of good and sufficient cause;
 - (2) A determination that failure to grant the variance would result in undue and exceptional hardship;
 - (3) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisance, or cause fraud or victimize the public;
 - (4) The requested variance does not go beyond the minimum necessary to afford relief, and does not constitute limitations upon other properties;
 - (5) The grant of the variance will not be materially detrimental to the public welfare or injurious to the property or improvements; and
 - (6) The strict application of the requirements of this chapter would deprive the property owner of rights and privileges enjoyed by other property owners.
- (g) Upon consideration of the factors of subsection 14-442(a) and the purposes of this article, the zoning board of appeals may attach such conditions to the granting of variances as it deems necessary to further the purposes of this article.
- (h) Any person aggrieved by the decision of the zoning board of appeals may appeal such decision by ~~writ of certiorari~~ **petition of review** to the Superior Court of DeKalb County in accordance with state law. A person shall be considered aggrieved for the purpose of this subsection only if: said person or said person's property

was the subject of the action appealed from; or said person has a substantial interest in the action appealed from that is in danger of suffering special damage or injury not common to all property owners similarly situated.

Chapter 15 - LICENSES, PERMITS AND MISCELLANEOUS BUSINESS REGULATIONS

ARTICLE VIII. - MASSAGE THERAPY LICENSING

Sec. 15.8.11. Revocation of license.

- (a) No license issued hereunder shall be revoked except for due cause as herein defined without the opportunity for a hearing as hereinafter set forth before the certificate review hearing officer. Notice of such hearing shall be given in writing and served at least ten days prior to the date of the hearing thereon. In the event the license holder cannot be found, and the service of notice cannot be otherwise made in the manner herein provided, a copy of such notice shall be mailed registered postage fully prepaid, addressed to the license holder or the registered agent thereof at his, her, or its place of business or residence at least ten days prior to the date of such hearing. The notice shall state the grounds for revocation of such license and shall designate the time and place where such hearing will be held.
- (b) Due cause for revocation of such license shall be as provided in section 15.8.12 of this article.
- (c) In all hearings pursuant to this section, the following procedures shall prevail, and the proceeding shall be as informal as compatible with justice:
 - (1) The charges and specifications against the licensee shall be read along with any response filed by the licensee.
 - (2) The certificate review hearing officer shall hear the evidence upon the charges and specifications as filed against the licensee and shall not consider any additional evidence beyond the scope of the charges, and may exclude evidence which is purely cumulative.
 - (3) The order of proof shall be as follows: The city representative shall present his evidence in support of the charges; the licensee shall then present his evidence. Evidence of each party may be supported by submission of pertinent documents. Each party shall be allowed to present pertinent rebuttal evidence.
 - (4) The licensee and city may be represented by counsel, and may present, examine and cross-examine witnesses. Additionally, the certificate review hearing officer may interrogate all parties and witnesses to obtain necessary information. Following the presentation of evidence, the hearing officer may have a reasonable time within which to issue its decision.
 - (5) The findings of the certificate review hearing officer will be final unless within 30 days of the date of the decision, the applicant files a petition for ~~writ of certiorari~~ **petition of review** to the superior court of the county.

ARTICLE XIV. - FILM PRODUCTION

Sec. 15.14.7. Processing of permit applications.

A producer that wishes to perform filming must submit to the Department of Economic Development a completed application and the application fee set forth in code section 15.14.11 below. Where the producer is an organization, corporation or other entity, the application must be signed and submitted by an individual authorized to bind the producer. The Department of Economic Development will process the applications and the director will make permit determinations in accordance with this article XIV.

- (1) The application shall include, but not be limited to, the following:

- a. The filming project name;
 - b. The name and contact information of the applicant, including postal address, email address, and telephone number;
 - c. A valid photo identification of the applicant;
 - d. The name and contact information of the producer (if the applicant is not the producer);
 - e. The dates, times and locations of the filming for which a permit is being requested, and a general description of the filming activity that will occur at each location;
 - f. A description of any elements that may be performed during the filming, including the dates, times and locations of each;
 - g. A description of any aspects of the filming, other than the elements, that may require city services;
 - h. A description of any assistance the producer may need from the City and/or concerns that the producer wants the City to be aware of; and
 - i. Where the producer is a student, an official letter or document from his school confirming that he is currently enrolled there. In addition, the student must appear in person and present his current student identification card and a valid driver license. Where the student does not have a driver license, he may present a different form of identification that includes his photo.
- (2) When more than one application is received for filming at substantially the same place and time, and the director reasonably determines that the filmings cannot logistically and/or safely occur together, the earlier or earliest of the applications that is received by the Department of Economic Development in a substantially completed form, which includes submission of the requisite application fee, shall be given priority as to the time and place requested. The Department of Economic Development shall make reasonable efforts to consult with the other applicants in an attempt to find alternative times and/or locations that are acceptable.
 - (3) Film permit applications must be submitted to the Department of Economic Development at least three days prior to the proposed effective date of the permit to avoid rush permit fees as outlined in section 15.4.11.
 - (4) The Department of Economic Development shall compile and maintain rules and guidelines applicable to the use of public property for filming, including the elements that are part of the filming, and shall apply those rules and guidelines equally regardless of the subject matter of the filming and/or the content of the speech therein.
 - (5) In the event that permission to perform an element is denied pursuant to subsection 15.14.6(2) above, the Department of Economic Development will process the remainder of the permit and grant all other aspects of the filming for which the requirements have been met.
 - (6) The Department of Economic Development may deny an application only if the director reasonably determines that one or more of the below-listed conditions exists. Prior to denial, the Department of Economic Development shall make reasonable efforts to consult with the producer in an attempt to resolve issues of concern and/or find alternative ways to accommodate the producer's filming needs, as described in subsections (7) through (10) of this section.
 - a. The filming poses an unreasonable risk of personal injury or property damage to people or property not associated with the filming;
 - b. The filming poses an unreasonable risk of damage to public property that could not be quickly and/or fully remediated;
 - c. The date and time requested for a particular filming location conflicts with previously-issued permits or permissions for filming, outdoor events, or other activities;

- d. Use of the filming location, or use of the location during the date or time requested, would unreasonably interfere with the operation of city functions;
 - e. Use of the filming location or the proposed activity at the location would violate a law, ordinance, statute or regulation, regardless of whether the illegal activity is part of the message or content of the filming. A permit shall not be denied based upon simulation of an illegal activity where the actual illegal activity is not being performed;
 - f. The producer owes an outstanding debt to the city;
 - g. The producer previously caused significant damage to public property and, at the time of submitting the application under consideration, failed to adequately repair the damage or pay in full the city's invoice for damage repair and restoration services;
 - h. The producer previously violated this entertainment filming ordinance on two or more occasions, including without limitation by violating a material condition and/or restriction of a permit;
 - i. On two or more occasions, the producer's entertainment industry work in the city violated a city ordinance or other applicable law; and
 - j. The applicant made a material misrepresentation or gave incorrect material information on the application.
- (7) Prior to denying an application, if the Department of Economic Development determines that the requested filming includes one or more of the conditions described in subsection (6)a., b., c., or d. of this section, the Department of Economic Development shall employ reasonable efforts to identify alternative filming locations, times and/or dates that eliminate the unacceptable conditions and that are mutually acceptable to the producer and the city. The producer shall modify the application to incorporate any agreed-upon alternatives.
 - (8) Prior to denying an application, if the Department of Economic Development determines that the requested filming or related activity creates a violation as described in subsection (6)c. of this section, the Department of Economic Development shall allow the producer to revise the application so that the filming activities comply with applicable law.
 - (9) Prior to denying an application pursuant to subsection (6)f. or g. of this section, the Department of Economic Development shall notify the producer of the potential denial and allow her/him to remedy the conditions described in those subsections. The Department of Economic Development shall process the application after such repair, restoration or payment is complete, and may require the producer to obtain a refundable sanitation bond for the filming permit in an amount equivalent to the cost of the repair, restoration or debt.
 - (10) Prior to denying an application pursuant to subsection (6)h., i. or j. of this section, the Department of Economic Development shall provide the applicant an opportunity to present documents or other evidence that refutes the director's finding of previous permit violations, of previous violations of the law, or of misrepresentation or misinformation on the application, as applicable.
 - (11) Where the director has complied with subsections (7), (8), (9) and/or (10) of this section and reasonably determines that one or more of the conditions set forth in subsection (6) of this section continues to exist and that the application should therefore be denied, the director shall issue a written communication to the applicant that includes a detailed explanation for the denial. Nothing in this subsection shall preclude the director from also notifying the applicant orally.
 - (12) If the director denies an application, the applicant shall have the right to appeal the decision to the City Manager or his designee, provided that a written request for such appeal is made to the City Manager within three business days after the applicant's receipt of the director's determination. The person considering the appeal must be impartial, and must have had no involvement in the director's decision. The appeal shall be heard or considered within three business days after the city receives the

applicant's request, and shall be decided de novo. The person considering the appeal shall evaluate the application and the director's decision in accordance with the criteria of this article XIV.

- (13) The person considering the appeal may issue his decision verbally, and shall issue a written decision within three business days of receiving written evidence from the applicant and/or meeting with the applicant, whichever is later. The written decision shall be the final decision of the city regarding the application. The applicant or producer may appeal the decision by ~~writ of certiorari~~ **petition of review** to the Superior Court of DeKalb County pursuant to the procedures set forth by Georgia law.
- (14) In no event shall the director's or any city employee's evaluation of whether to grant or deny the application, including any of the elements, include consideration of:
 - a) The race, color, creed, religion, gender, age, disability, domestic relationship status, parental status, familial status, sexual orientation, national origin, gender identity, political affiliation or associational relationships of the applicant, producer or any person associated with the filming; or
 - b) The message or content of the filming.

ARTICLE XVI. - APPEALS

Sec. 15.16.4. Hearings.

In all hearings pursuant to this chapter, the following procedures shall prevail, and the proceeding shall be as informal as compatible with justice:

- (a) A certificate review hearing officer shall convene the hearing.
- (b) The proceeding before the certificate hearing officer shall be recorded, and all documents and other materials considered by the certificate hearing officer shall be preserved as the record of the proceedings. The record of the proceedings shall be preserved for not less than 150 calendar days after the hearing.
- (c) Any alleged violations or misconduct levied against the appellant and scheduled for a hearing before the certificate hearing officer shall be read completely to appellant at the commencement of the hearing, unless waived by appellant.
- (d) The certificate hearing officer may receive evidence in support of the alleged violations or misconduct as filed against appellant. Decisions of the certificate review hearing officer are to be supported by the evidence accepted and admitted during the hearing.
- (e) The city shall bear the burden of proof. The standard of proof shall be by a preponderance of the evidence.
- (f) The order of proof shall be as follows: The city representative shall present the case-in-chief in support of the alleged violations or misconduct; the appellant may present a case-in-chief, if desired. Each party may be allowed to present one case-in-rebuttal.
- (g) The appellant and city may be represented by counsel, may present evidence, and may examine and cross-examine witnesses. Additionally, the certificate review hearing officer is permitted to question witnesses. A party is permitted no more than 15 minutes to present that party's case-in-chief; a case-in-rebuttal is permitted no more than ten minutes of presentation. Presentation of arguments and evidence may be in oral or written form, except that affidavits of individuals who are unavailable for cross-examination shall not be accepted, admitted, or considered by the certificate review hearing officer.
- (h) Following the presentation of evidence, the hearing officer shall issue a written decision within 30 calendar days of the date of the hearing. A copy of the decision shall be mailed, via registered or certified mail, to the parties or the parties' representatives. For the appellant, the decision shall be

mailed to the address provided on the notice of appeal. Should the certificate hearing officer fail to issue a timely decision, on the 31st day after the date of the hearing appellant may seek review as if a decision adverse to appellant had been rendered.

- (i) The findings of the certificate hearing officer shall be final unless a party files a petition for ~~writ of certiorari~~ **petition of review** to the superior court of the county within 30 calendar days of the decision of the certificate hearing officer.

Chapter 17 - MOTOR VEHICLE REGULATIONS

ARTICLE IX. - MISCELLANEOUS RULES

Sec. 17-272. Application and issuance of permit.

- (a) *Application.* To obtain an outdoor advertising spotlight permit, the applicant shall file with the police chief or designee a written application on a form promulgated by the police chief or designee. The police chief or designee shall have the authority to determine what pertinent information is required in the application. The application for a permit shall be made at least 15 days before the date of use of the outdoor advertising spotlight.
- (b) *Issuance.* The chief of police or designee shall determine whether or not the permit application is complete; that is if it contains all of the pertinent information required in the application form to grant the permit. After receipt of a complete application the police chief or designee shall grant or deny the permit within ten days. If the permit is issued, it shall be granted for a period not to exceed 14 days from date of issuance. If the permit is denied, the police chief or designee shall provide written notice to the applicant setting forth in reasonable detail the reasons for such denial.
- (c) *Appeals from denial.* The decision of the police chief or designee to deny an outdoor advertising spotlight permit shall be final unless the applicant files a petition for ~~writ of certiorari~~ **petition of review** to the DeKalb County Superior Court within 15 days of the date of the police chief or designee's decision.
- (d) *Exemptions.* The following properties are exempt from obtaining an outdoor advertising spotlight permit and exempt from the time restrictions set forth in section 17-271: (1) Any property owned or operated by the federal government, state government, any municipality or any public authority of the state, including, but not limited to, Stone Mountain Park.
- (e) *Renewals.* A permit for an outdoor advertising spotlight shall indicate an expiration date which is 14 days from the date of issue. Application for renewal may be made at any time following the ninetieth day after the date of expiration.

Chapter 21 - SIGNS

ARTICLE II. - ADMINISTRATION AND ENFORCEMENT

Sec. 21-26. Denial and revocation.

- (a) *Procedure.* The director shall deny permits to applicants that submit applications for signs that do not comply with the provisions of this chapter, incomplete applications, and applications containing any false material statements. Should it be determined that a sign permit was issued pursuant to an incomplete application or an application containing a false material statement, or that a permit has been erroneously issued in violation of this chapter, the director shall revoke the permit. Should the director deny or revoke a permit, the reasons for the denial or revocation are to be stated in writing and hand delivered or mailed by certified mail, return receipt requested, to the address on the permit application. Any application denied and later

resubmitted shall be deemed to have been submitted on the date of resubmission, instead of the date of the original submission. Violation of any provision of this chapter and any other applicable state laws or city ordinance regulating signage will be grounds for denying a permit or revoking a permit granted by the city for the erection of a sign. No permit shall be denied or revoked, except for due cause as hereinafter defined. The term "due cause" means the violation of the provisions of this chapter, other applicable ordinances, state or federal law regulating signage, or the submission of an incomplete application or an application containing false material statements.

- (b) *Appeals.* The zoning board of appeals shall have the power and duty to hear and decide appeals where it is alleged that there is an error in the denial or revocation of a sign permit under this chapter. All such appeals shall be heard and decided following the notice requirements of subsection (c) of this section and pursuant to the following criteria and procedural requirements:
- (1) *Appeal of decision by administrative officials.* A denial or revocation pursuant to this chapter shall be appealable by filing with the secretary of the zoning board of appeals an application for appeal on the forms provided by the planning department specifying the grounds thereof, within 15 calendar days after the action appealed from was taken. The application fee for an appeal under this section shall be the same as that established by the city council for an appeal under chapter 27.
 - (2) *Decision of the board.* Following the consideration of all testimony, documentary evidence, and matters of record, the board shall make a determination on each appeal. An appeal shall be sustained only upon an expressed finding by the board that the administrative official's action was based on an erroneous finding of a material fact, or that the administrative official acted in an arbitrary manner. In exercising its powers, the board may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from, and to that end shall have all the powers of the administrative official from whom the appeal was taken and may issue or direct the issuance of a permit provided all requirements imposed by all other applicable laws are met.
 - (3) *Time for final decision.* A final decision will be rendered by the board within 90 days from date an appeal is filed. If a final decision is not rendered within the 90-day period, the decision sought to be appealed shall be reversed.
- (c) *Notice of public hearings.* Notice of public hearing before the board on any application for appeal or variance shall be provided as follows:
- (1) Written notice of the nature of the proposed application, and the date, time, and place of the public hearing before the board shall be mailed by first class mail to all property owners within 500 feet of the boundaries of the subject property as measured by use of the official zoning maps, and as such property owners are listed on the tax records of the city, at least 15 days before the public hearing before the board;
 - (2) Public notification signs shall be posted within the public right-of-way or on the subject property at least 15 days before the hearing before the board. The sign shall state the nature of the proposed application and the date, time and place of the public hearing before the board;
 - (3) Notice of the nature of the proposed application and the date, time and place of the public hearing before the board shall be published in the newspaper of general circulation within the city in which are carried the legal advertisements of the city at least 15 days prior to the date of the hearing before the board and not more than 45 days prior to the date of the hearing before the board;
 - (4) The cost of all signs posted, and notice mailings sent, pursuant to this section shall be specifically paid by the applicant in addition to all other applicable application costs; and
 - (5) Applications may be withdrawn by the applicant or applicant's representative in writing without prejudice at any time before the vote of the zoning board of appeals on the application. All fees submitted shall be forfeited in any case where the application is withdrawn after it has been advertised for a public hearing in a newspaper of general circulation.

- (d) ~~Certiorari~~ **Petition of Review**. In the event a person whose permit has been denied or revoked is dissatisfied with the decision of the zoning board of appeals, a person may petition for ~~writ of certiorari~~ **petition of review** to the superior court of the county as provided by law.

Chapter 22.5 - STORM SEWER ILLICIT DISCHARGE AND ILLEGAL CONNECTION

ARTICLE III. - REGULATED STORMWATER DISCHARGES

Sec. 22.5-45. Appeal of denial of exemption.

- (a) Any person aggrieved by the determination of the Director that a discharge or connection, otherwise exempted under the provisions of section 22.5-43, is a significant source of pollution may file with the Director a notice of appeal of such determination to the Construction Board of Appeals. The notice of appeal must be in writing and received within 15 days of receipt of the notice of the determination from the Director that such discharge or connection constitutes a source of pollution. The notice of appeal must set forth the reasons that the person believes that the determination of the Director should be rescinded.
- (b) An appeal shall be sustained only upon the express written finding by the Construction Board of Appeals that the Director's action was based on an erroneous finding of a material fact, or that the Director acted in an arbitrary manner. In exercising its powers, the Construction Board of Appeals may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from, and to that end shall have all the powers of the Director from whom the appeal was taken and may issue or direct the issuance of an exemption provided all requirements imposed by all applicable laws are met. The Construction Board of Appeals may also remand any appeal for the receipt of additional information.
- (c) The fact that a person has appealed the determination of the Director shall not delay or otherwise hinder any notice of violation, citation or other enforcement action or proceeding brought by the Director to enforce the provisions of this Chapter after notice of the determination.
- (d) Appeals from the decision of the Construction Board of Appeals shall be by ~~writ of certiorari~~ **petition of review** to the superior court of the county.

Chapter 23 - STREETS AND SIDEWALKS

ARTICLE IV. - MOVING BUILDINGS AND OTHER OVERSIZE LOADS

DIVISION 2. - PERMIT

Sec. 23-110. Appeals.

An applicant or permittee under this Division shall be entitled to appeal a decision of the Public Works Department denying, suspending or revoking a permit, to the Mayor and City Council, by filing a notice of appeal with the Public Works Department within ten days of the decision appealed from. The Mayor and City Council shall schedule a hearing on the appeal at the next available public meeting, but no later than 30 days after the appeal is filed and shall provide the appellant notice of the date of such hearing at least seven days prior to the hearing. The City Council's decision is final and may be appealed by the applicant/permittee by Petition for ~~Writ of Certiorari~~ **Review** to the DeKalb County Superior Court in accordance with State law.

ARTICLE V. - ENCROACHMENT PERMITS

Sec. 23-135. Permit.

- (a) It shall be unlawful for any person to perform the work listed in subsections (a)(1) and (2) of this section without the prior issuance of an encroachment permit by the Director of Public Works:
 - (1) Installation, construction, maintenance, renewal, removal, and relocation of pipes, mains, conduits, cables, wires, poles, towers, traffic and other signals, and other equipment, facilities, or appliances of any utility in, on, along, over, or under the City's public roads.
 - (2) Construction, relocation, or removal of driveways, sidewalks, curbing, bike lanes, multi-use trails, associated drainage facilities, and landscaping construction and maintenance in, on, along, over, or under the city's public roads.
- (b) The Public Works Department shall develop application forms; establish, in writing, the documentation and information required for an encroachment permit application to be considered complete; develop objective, written criteria for granting, denying or revoking encroachment permits; develop guidelines listing the information required to be submitted on or with plans and specifications; promulgate all guidelines and necessary forms; and take such other administrative steps as may be necessary to enforce the provisions of this Article.
- (c) All information and plans required to be submitted by applicant and the objective, written criteria for evaluating permits shall relate solely to managing the use of the City's public roads, and shall be designed solely to obtain information that furthers the stated purposes of this Article.
- (d) The application for an encroachment permit may require the applicant to describe the nature, extent, and location of the work, and may also require the applicant to furnish an indemnity bond or other acceptable security conditioned to pay for any damages to any part of the City's public roads or to any member of the public caused by work performed under authority of such permit.
- (e) Each applicant shall pay a nonrefundable encroachment permit application fee and cost recoupment fees in an amount established by the Mayor and City Council.
- (f) The Director of Public Works shall determine if the proposed work can be performed under one permit or will require multiple permits. At a minimum, each applicant shall be required to obtain a separate encroachment permit for work that will be performed on more than one street.
- (g) An applicant must pay the fees and submit a complete application to the Director of Public Works. The Director shall grant or deny an encroachment permit 30 days from receipt of a complete application. Each encroachment permit expires six months from the date of issuance by the City as reflected on the permit.
- (h) Any encroachment permit may be denied or revoked by the Director of Public Works for a violation of this Article or a failure to show compliance with the City's objective, written criteria or guidelines established pursuant to this Article. The decision to deny or revoke an encroachment permit shall become effective 14 days after the date the written notice is mailed to the applicant at the address on the encroachment permit application. The applicant/permittee may contest the denial or revocation by sending an appeal with written reasons explaining why an encroachment permit should not be denied or revoked prior to the effective date of denial or revocation to the Public Works Director. Upon receipt of same, the Public Works Director shall refer the case to the City Manager or designated Hearing Officer. The City Manager or designee shall consider the written reasons and advise the applicant/permittee of his decision in writing within five business days of receipt. The City Manager's or designated Hearing Officer's decision in this regard is final. If the applicant/permittee contests the decision to deny or revoke an encroachment permit, the effective date of such denial or revocation shall be three days after the date of the City Manager's or designated Hearing Officer's final decision. The applicant/permittee may appeal the City Manager or designee's final decision by filing a Petition for ~~Writ of Certiorari~~ **Petition of Review** with the DeKalb County Superior Court in accordance with State law.

Chapter 25 - WATER, SEWERS AND SEWAGE DISPOSAL

ARTICLE V. - STORMWATER UTILITY

Sec. 25-412. Appeals.

- (a) Any customer who believes the provisions of this article have been applied in error may appeal in the following manner:
 - (1) An appeal must be filed in writing with the city manager or designee within 30 days of the decision that is appealed. In the case of service charge appeals, the appeal shall include a survey prepared by a registered land surveyor or professional engineer containing information on the total property area, the impervious surface area, and any other features or conditions which influence the hydrologic response of the property to rainfall events.
 - (2) The city manager or his designee shall conduct a technical review of the conditions on the property and respond to the appeal in writing within 60 days.
 - (3) In response to an appeal the chief executive officer or his designee may adjust the stormwater service charge applicable to a property in conformance with the general purpose and intent of this article.
 - (4) All decisions rendered by the city manager or his designee pursuant to this section shall be final.
- (b) The appeal process contained in this section shall be a condition precedent to an aggrieved customer seeking judicial relief. Any decision of the city manager or his designee may be appealed by application for ~~writ of certiorari~~ **petition for review** in the Superior Court of DeKalb County, filed within 30 days of the date of service of the decision of the City Manager.