



CITY COUNCIL AGENDA ITEM

SUBJECT: TMOD-22-012 Animal Exhibition

AGENDA SECTION: *(check all that apply)*

☐ PRESENTATION ☐ PUBLIC HEARING ☐ CONSENT AGENDA ☒ OLD BUSINESS
☐ NEW BUSINESS ☐ OTHER, PLEASE STATE: Click or tap here to enter text.

CATEGORY: *(check all that apply)*

☒ ORDINANCE ☐ RESOLUTION ☐ CONTRACT ☐ POLICY ☐ STATUS REPORT
☐ OTHER, PLEASE STATE: Click or tap here to enter text.

ACTION REQUESTED: ☒ DECISION ☐ DISCUSSION, ☐ REVIEW, or ☐ UPDATE ONLY

Previously Heard Date(s): 04/24/23 & 03/27/23

Current Work Session: Monday, May 8, 2023

Current Council Meeting: Monday, May 8, 2023

SUBMITTED BY: Raymond White, Planning & Zoning Director

PRESENTER: Raymond White, Planning & Zoning Director

PURPOSE: The following document includes recommended zoning language for regulation of a land use in the City of Stonecrest, which can result in the operation of an “Animal Exhibition” as defined by the USDA “Animal Welfare Act and Animal Welfare Regulations”.

FACTS: The staff created a text amendment to require land use compliance and to establish future regulations for like and similar establishments.

OPTIONS: Discussion only Click or tap here to enter text.

RECOMMENDED ACTION: Approval

ATTACHMENTS:

- (1) Attachment 1 - Staff Report
- (2) Attachment 2 - Background & Approach Summary
- (3) Attachment 3 - Legal Elements
- (4) Attachment 4 - Principal Uses and Structures

Staff Report

The council and Mayor voted to defer the Animal Exhibition approval on Monday, April 24, 2023. The reason for this deferral was to address the need for more information regarding the development status of the property associated with this proposed ordinance. Staff has reviewed the intent of the locational factor associated with this use and has noted that there is a need for clarification regarding the location of Outdoor Animal Exhibitions, especially in the Arabia Mountain Overlay District. Please review the narrative in the “Principal uses and structures element” below as part of this staff report.

Background

The Mayor and City Council of the City of Stonecrest desire a review of TMOD 2022-012, which concerns an Ordinance text modification that would allow consideration of “animal exhibitions” as regulated by the USDA “Animal Welfare Act and Animal Welfare Regulations” in appropriate locations in the city. Identification of these locations is based on compatibility of animal exhibitions with the intent of the character areas reflected on the Future Development Map and goals and policies adopted in the City of Stonecrest Comprehensive Plan 2038.

This review also examines development standards designed to minimize potentially adverse impacts of such a use on the Stonecrest community and surrounding uses. These standards are proposed for incorporation into Division 2. Supplemental Use Regulations of the Stonecrest Zoning Ordinance. Finally, review of TMOD 2022-012 seeks to establish procedures for Mayor and Council in determining the appropriateness of animal exhibitions.

Approach

The approach to identifying those character areas most appropriate to the proposed animal exhibition use is proposed as an analysis using the standards of review of the Ordinance. These standards are found in Sec. 7.3.5. *Standards and factors governing review of proposed amendments to the official zoning map*. The standards have been used to assess (1) the compatibility of the proposed animal exhibitions with the comprehensive plan, specifically compatibility with the chosen character areas for which the exhibitions are proposed, (2) consistency with the purpose and intent of the underlying zoning districts associated with those character areas, (3) similarity of the proposed use with uses allowed in the selected zoning districts and (4) compatibility of the use as concerns impact on street network and other public infrastructure.

In considering potential locations for animal exhibitions based on compatibility with certain character areas and zoning districts, it was quickly acknowledged that animal exhibitions were a commercial use not compatible with residential districts. Animal exhibitions were determined to be equally incompatible with industrial uses at the other end of the land use spectrum. Guidance for evaluating locations for animal exhibitions came from the statements of intent of the character areas identified in the Comprehensive Plan 2038.

An important consideration in identifying appropriate locations for animal exhibitions, particularly indoor animal exhibitions, is the transportation network. Another consideration was the location of those character areas planned for commercial development. These character areas are found primarily along I-20.

Animal exhibitions are characterized as either “Indoor Animal Exhibitions” or “Outdoor Animal Exhibitions.”



CITY COUNCIL AGENDA ITEM

(5) Attachment 5 - [Click or tap here to enter text.](#)

STATE OF GEORGIA
DEKALB COUNTY
CITY OF STONECREST

ORDINANCE NO. ____ - _____

1 AN ORDINANCE TO AMEND THE CODE OF ORDINANCES, CITY OF STONECREST,
2
3 GEORGIA, BY AMENDING DIVISION 1 (OVERVIEW OF USE CATEGORIES AND
4
5 USE TABLE) AND DIVISION 2 (SUPPLEMENTAL USE REGULATIONS) OF ARTICLE
6
7 4 (USE REGULATIONS) AND ARTICLE 9 (DEFINITIONS) WITHIN CHAPTER 27
8
9 (ZONING ORDINANCE); TO PROVIDE SEVERABILITY; TO PROVIDE A PENALTY;
10
11 TO PROVIDE FOR REPEAL OF CONFLICTING ORDINANCES; TO PROVIDE FOR
12
13 AN ADOPTION AND EFFECTIVE DATE; AND TO PROVIDE FOR OTHER LAWFUL
14
15 PURPOSES.

16
17 WHEREAS, the governing body of the City of Stonecrest ("City") is the Mayor and
18
19 City Council thereof; and
20

21 WHEREAS, Article IX, Section II, Paragraph IV of the 1983 Constitution of the State of
22
23 Georgia authorizes the City to adopt plans and exercise the power of zoning; and
24

25 WHEREAS, the governing authority of the City is authorized by O.C.G.A. § 36-35-3 to
26
27 adopt ordinances relating to its property, affairs, and local government; and
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29 WHEREAS, the Mayor and City Council desire to amend Division 1 (Overview of Use Categories
30
31 and Use Table) and Division 2 (Supplemental Use Regulations) of Article 4 (Use Regulations) and
32
33 Article 9 (Definitions) within Chapter 27 (Zoning Ordinance); and
34

35 WHEREAS, from time-to-time amendments may be proposed for public necessity,

36
37 general welfare, or sound zoning practice that justify such action; and
38

39 **WHEREAS**, the Director of Planning and Planning Commission recommend approval
40
41 based on the City Staff Report and said report is hereby incorporated by reference herein; and
42

43 **WHEREAS**, a public hearing pursuant to the provisions of the Zoning Procedures Law
44 has
45
46 been properly held prior to the adoption of this Ordinance; and
47

48 **WHEREAS**, the health, safety, and welfare of the citizens of the city will be positively
49
50 impacted by the adoption of this Ordinance.
51

52 **BE IT AND IT IS HEREBY ORDAINED BY THE MAYOR AND CITY COUNCIL**
53
54 **OF THE CITY OF STONECREST, GEORGIA**, and by the authority thereof:
55

56 **Section 1.** The Code of Ordinances of the City of Stonecrest, Georgia is hereby amended by
57
58 amending Division 1 (Overview of Use Categories and Use Table) and Division 2 (Supplemental
59
60 Use Regulations) of Article 4 (Use Regulations) and Article 9 (Definitions) within Chapter 27
61
62 (Zoning Ordinance); within Chapter 27 (Zoning Ordinance); by adopting the provisions set forth
63
64 in Exhibit A attached hereto and made a part hereof by reference.
65

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

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

70 **Section 4.** (a) It is hereby declared to be the intention of the Mayor and Council that all
71 sections, paragraphs, sentences, clauses, and phrases of this Ordinance are or were, upon their
72 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

111 Stonecrest, Georgia.

ORDAINED this _____ day of _____, 2023.

[SIGNATURES TO FOLLOW]

CITY OF STONECREST, GEORGIA

Jazzmin Cobble, Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney

**EXHIBIT A
(SEE ATTACHED)**

113

13. Comply with § 27-5-5 - Wild animals for which license or permit required :: 2010 Georgia Code :: US Codes and Statutes :: US Law :: Justia

As relates to *Outdoor Animal Exhibitions*, such use shall comply with paragraphs 1. through 13 directly above and the following additional regulations:

1. Outdoor animal exhibitions shall only be operated between the hours of 8:00 AM and 8:00 PM.

2. No building that houses animals, or enclosure that confines animals, shall be placed less than one hundred (100) feet from a common property boundary with a residential use or a residential zoning district.

CHAPTER 27: ZONING ORDINANCE

ARTICLE 9 – DEFINITIONS

Indoor Animal Exhibitions means the display of any animal to the public in an enclosed building. Such exhibitions may include, but are not limited to indoor zoos, indoor petting zoos, aquariums, bird aviaries, butterfly exhibits, museums with live exhibits and educational venues. Indoor animal exhibitions shall not include retail pet stores, the keeping of household pets, livestock shows, purebred dog or cat shows, and similar events.

Outdoor Animal Exhibitions means the display of any animal to the public in an open-air structure such as a corral or other fenced area. Outdoor animal exhibitions may include, but are not limited to, outdoor zoos, outdoor petting zoos, wildlife or fauna parks and similar venues. This use shall not include agricultural fairs, livestock shows, purebred dog or cat shows, or similar events. Outdoor animal exhibitions are not considered agricultural fairs where animals are displayed on exhibition grounds for comparing and judging the qualities and characteristics of various breeds and species of animals. The main purpose of such exhibitions is not to market “for sale,” animals, but merely for their display.

For purposes of this text modification, carnivals, circuses, and similar venues are not considered outdoor animal exhibitions; rather these temporary events are subject to the regulations of Sec. 4.3.1. Temporary outdoor uses, general requirements; Sec. 4.3.2. Duration, frequency and hours of operation of temporary outdoor uses; and Sec. 4.3.5. Temporary outdoor events.

4. Provide written permission from the owner or property manager of the building to be occupied as an indoor Animal Exhibition to the City.
5. Display a copy of all required valid licenses and permits in a prominent place on premises.
6. Be licensed and comply with all rules and regulations for a "Licensed Class C – Exhibitor" under the Animal Welfare Act (7 U.S.C. 2131 et seq.) and as regulated by the United States Department of Agriculture (USDA) regulations established in the most recent issue of "USDA Animal Care – Animal Welfare Act and Animal Welfare Regulations" (aka the USDA Blue Book).
https://www.aphis.usda.gov/animal_welfare/downloads/bluebook-ac-awa.pdf.
All required licensing shall be renewed prior to expiration and a copy provided to the City. Upon expiration or non-renewal of the license, the use shall immediately cease operations until a copy of a valid license is provided to the City.
7. Comply with the Georgia Department of Agriculture Animal Health Division regulations as established in the Rules and Regulations of the State of GA Chapter 40-13.
8. Comply with applicable standards of the Georgia Department of Natural Resources (DNR) for the regulation of non-native species as per the regulated wild animals/exotics types (<https://gadnrle.org/exotics>), and restricted non-native species found in O.C.G.A. §27-5-4.
9. Comply with applicable regulations and standards for regulated native species as per the Georgia DNR's laws related to native wildlife (<https://gadnrle.org/laws-native-wildlife>). The Georgia DNR shall be notified prior to adding additional regulated species prior to acquisition. Proof of notification and approval may be required at any time by the City of Stonecrest to ensure compatibility.
10. Comply with the Georgia Department of Agriculture (GDA) regulations for general requirements for animal health and disease prevention, including following all requirements for importing animals from out of state, for intrastate transportation, vaccination and quarantine requirements, as applicable, as per the Rules and Regulations of the State of Georgia Chapter 40-13 (<http://rules.sos.state.ga.us/GAC/40-13>).
11. Comply with the Georgia Department of Public Health regulations pertaining to reporting rabies exposure.
12. Comply with DeKalb County requirements for "hazardous animals" as per DeKalb County Code of Ordinances, Chapter 5 – Animals (https://library.municode.com/ga/dekalb_county/codes/code_of_ordinances?nodeId=CODECO_CH5AN).

Recreation club	S P	S P	S P	S P	S P	S P	S P	S P	S P	S P		S P					P						S P	✓	
Places of worship	S P	S P	S P	S P	S P	S P	S P	S P	S P	S P		S P	P	P	P	P	P	P	P	P	P	P	P	✓	
Recreation, outdoor																	P	P	P	P				✓	
Swimming pools, commercial	S P	S P	S P	S P	S P	S P	S P	S P	S P	S P	S P	S P	P	P		P	P	P	P			P a	P a	P a	✓
Tennis courts, swimming pools, play or recreation areas, community,	P a	P a	P a	P a	P a	P a	P a	P a	P a	P a	P a	P a	P	P		P	P	P	P			P a	P a	P a	✓
Use	R E	R L G	R - 1 0 0	R - 8 5	R - 7 5	R - 6 0	R S M	M R - 1	M R - 2	H R - 1 , 2 , 3	M H P	R N C	O I	O I T	N S	C - 1	C - 2	O D	M	M - 2	M U - 1	M U - 2	M U - 3	M U - 4 , 5	See Section 4.2

Table 4.1. Use Table

CHAPTER 27: ZONING ORDINANCE

ARTICLE 4 – USE REGULATIONS

DIVISION 2. SUPPLEMENTAL USE REGULATIONS

As relates to Indoor Animal Exhibitions, such use shall:

1. Be conducted entirely within an enclosed building.
2. Not produce noise, dust, liquids, fumes, odors or other irritants that may affect surrounding residents, business owners or property owners.
3. Be properly insured and provide proof of such insurance to the City of Stonecrest.

																S	S									
Cemetery , columbarium, mausoleum	S P	S P	S P	S P	S P	S P	S P	S P	S P	S P				P	P			P								✓
Club, order or lodge, fraternal, non-commercial														P	P		P	P	P	P		P	P	P	P	
Coliseum or stadium/ not associated with church or school																	P	P	P					S P	P	✓
Cultural facilities								S P	S P	S P				S P	S P		S P	S P	S P	S P		S P	S P	S P	S P	
Funeral home, mortuary														P	P		P	P			P	P	P	P		
Golf course or clubhouse, public or private	P	P	P	P	P	P	P				P			P	P			P	P	P						✓
Government facilities	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
Hospital or accessory ambulance service														P	P									P	P	
Library or museum								P	P	P				P	P	P	P	P	P			P	P	P	P	
Neighborhood or subdivision clubhouse or amenities	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P						P	P	P	P		✓

CHAPTER 27: ZONING ORDINANCE

ARTICLE 4 – USE REGULATIONS

DIVISION 1. OVERVIEW OF USE CATEGORIES AND USE TABLE

Sec. 4.1.3. Use table.

Table 4.1 indicates the permitted uses within the base zoning districts. Even though a use is listed as an allowable use within a particular base zoning district, additional use restrictions may apply based on the applicable overlay zoning district requirements specified in article 3 of this chapter, overlay districts.

- A. The uses listed in Table 4.1 shall be permitted only within the zoning districts identified, and no use shall be established and no structure associated with such use shall be erected, structurally altered or enlarged unless the use is permitted as:
1. A permitted use (P);
 2. A special use (SP) subject to the special land use permit application procedures specified in article 7 of this chapter;
 3. An administratively approved use (SA) subject to the special administrative permit procedures specified in article 7 of this chapter;
 4. An accessory use (PA) as regulated by this article 4 of this chapter. Table 4.1 does not list all accessory uses but clarifies uses acceptable as accessory, though not typically considered principal uses for the zoning classification.
 5. Uses lawfully established prior to the effective date of this zoning ordinance.
- B. Any use not listed in Table 4.1, below, or interpreted to be allowed by the director of planning pursuant to section 4.1.2 is prohibited. Any applicant denied a permit to allow a use of property in a zoning district other than as provided in this section may file an appeal before the zoning board of appeals as provided in article 7 of this chapter.
- C. If there is a conflict between Table 4.1 and the text of this chapter, the text shall prevail.

INSTITUTIONAL/PUBLIC																			
Community Facilities																			
Animal Exhibitio n, Indoor																	S P	S P	
Animal Exhibitio n, Outdoor																	S P	S P	
Aquarium /Indoor/ Outdoor Exhibitio n																	S P	S P	

Sec. 3.4.5. Principal uses and principal structures.



A. The principal uses of land and structures which are allowed in the AMCOD are as is provided by the applicable underlying zoning district, except for those listed in B below, subject to the limitations and standards contained within this district. Additional permitted uses are as follows:

1. Recreation, passive and Nature preserve.
2. Dog Parks.
3. Bed and Breakfast homes.
4. Outdoor Concert halls.
5. Urban Gardens.

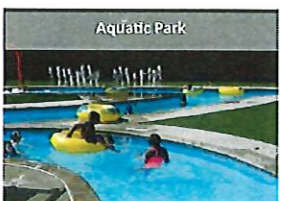
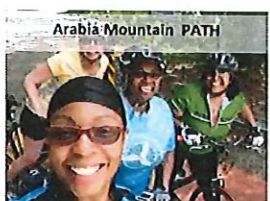
As concerns guidance from the Comprehensive Plan ordinance, that document records that ““All zoning districts” identified in the Ordinance are considered compatible with the Conservation and Open Space (COS) Character Area (as below). [It is often the case that elected officials are not as keenly aware of the policy documents they approve as is Staff. That is understandable, given the volume of materials they must read, but this entire exercise relied on the policies adopted in both the Comprehensive Plan and the Zoning Ordinance. I believe we should emphasize that as we did not pull the recommendations out of the air.]

**Conservation/Open Space (COS)
Primary Land Uses**

- Passive Parks and Nature trails
- Flood Plains, Wetlands, and Watersheds
- Golf Courses
- Athletic Fields and Recreation Facilities
- Amphitheaters

Permitted Zoning in COS Areas
ALL Zoning Districts

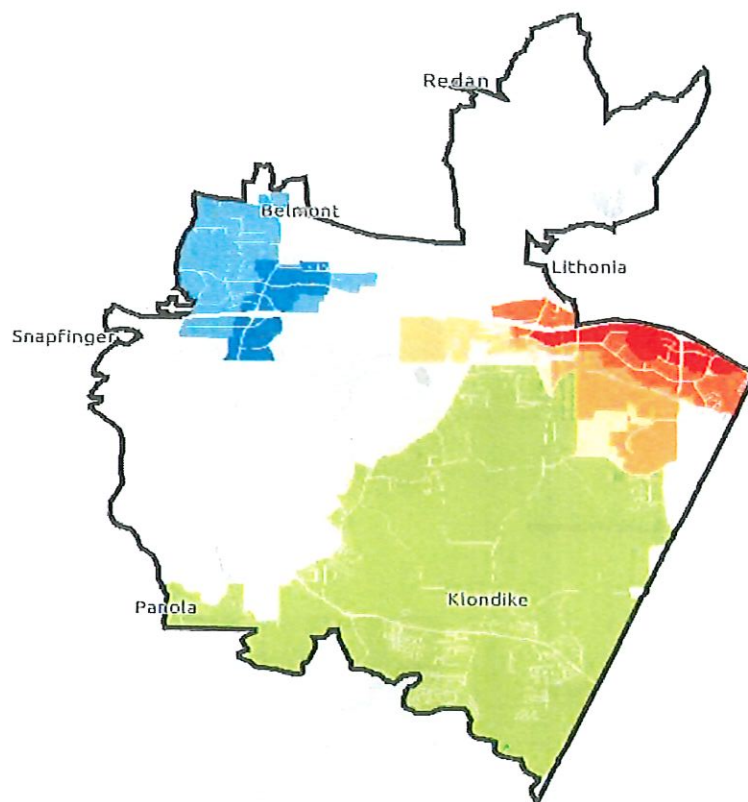



Land Use Designation		Use Description	Maximum Density Units/Acre	Permitted Districts
City/County	Conservation/Open Space (COS)	Passive Parks, Nature trails; Flood plains, Wetlands, Watersheds; Golf Courses; Athletic Fields;	N/A	All
		Amphitheaters		

Many of these uses are far more intensive than an Outdoor Animal Exhibition.

Conservation/Open Space Development Policies adopted in the Comprehensive Plan include “Recreation Destinations – Promote conservation and greenspace areas as passive use and recreation destinations.” Arguably, the Outdoor Animal Exhibitions comprise such recreation destinations.

The Conservation and Open Space (COS) Character Area Character Area and the AMCOD feature the least developed geography in the city. Outdoor Animal Exhibitions are typically established in a semi-rural setting. Examples given were Noah's Ark Animal Sanctuary in Henry County and Wild Animal Safari in Pine Mountain, both semi-rural areas. Land not encompassed in the Overlay is encompassed in the "Rural Residential" Character Area. We are not trying to sell any use on any portion of the city. However, if Council would decide to entertain the Outdoor Animal Exhibition use, we believe the properties within the Conservation and Open Space (COS) Character Area AND the Arabia Mountain Conservation Overlay District (in green highlight) are best suited for this use.



As not all properties in this Character Area and the Overlay will be suitable for this use given the uses on surrounding properties, this is where the discretion achieved by the Special Land Use Permit process comes in. That discretion allows Council to approve only those properties suitable for such a use in light of surrounding uses. In fact, market demand would in all likelihood support only one such Outdoor Animal Exhibition.

Where a particular use is not specifically listed in Table 4.1, Use Table, the director of planning shall have the authority to permit the use if the use is similar to uses permitted by this article. The director of planning shall give due consideration to the purpose and intent statements contained in this zoning chapter concerning the base zoning districts involved, the character of the uses specifically identified and the character of the uses in question.

This administrative authority is common in zoning ordinances.

Finally, to reiterate, the C-1 and C-2 zoning districts are not proposed for the Conservation/Open Space Character Area or and for properties within the Arabia Mountain Conservation Overlay District. The uses now permitted in the Overlay are as follows with Outdoor Animal Exhibitions being proposed:

1. Recreation, passive and nature preserve.
2. Dog parks.
3. Bed and breakfast homes.
4. Outdoor concert halls.
5. Urban Gardens.
6. Outdoor animal exhibitions.