

STATE OF GEORGIA
DEKALB COUNTY
CITY OF STONECREST

ORDINANCE NO. ____ - _____

1 AN ORDINANCE AMENDING ARTICLE III. – OFFENSES AGAINST PUBLIC PEACE,
2 ORDER AND SAFETY, DIVISION 2. – DRUG AND ALCOHOL-RELATED OFFENSES,
3 SECTION 16-54. – MARIJUANA POSSESSION, OF THE CITY CODE TO ESTABLISH
4 A CIVIL VIOLATION FOR THE POSSESSION OF ONE OUNCE OR LESS OF
5 MARIJUANA, TO ISSUE CITATIONS FOR SUCH OFFENSE IN LIEU OF
6 EFFECTUATING ARREST AND FOR OTHER PURPOSES ALLOWED BY LAW

7 (Sponsored by Mayor *Pro Tem* George Turner)

8
9 WHEREAS, the City of Stonecrest (“City”) is a municipal corporation duly organized and
10 existing under the laws of the State of Georgia;

11 WHEREAS, the City is charged with preserving the health, safety, and welfare of its
12 citizens;

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

15 WHEREAS, the City Council finds that enforcement of the State law prohibiting
16 possession of less than one ounce of marijuana has been inequitable and has fallen
17 disproportionately on certain subsets of the population;

19 **WHEREAS**, arrest and/or conviction for the State law offense of possession of less than
20 one ounce of marijuana presents employment obstacles which marginalize broad swaths of the
21 population;

22 **WHEREAS**, the City Council desires to facilitate equity in the administration of criminal
23 justice;

24 **WHEREAS**, O.C.G.A. § 36-35-6 grants municipal courts concurrent jurisdiction to try to
25 dispose of cases wherein a person is charged with possession of one ounce or less marijuana when
26 conduct occurs inside a municipality adopt ordinances relating to its property, affairs, and local
27 government; and

28
29 **BE IT AND IT IS HEREBY ORDAINED BY THE MAYOR AND CITY COUNCIL**
30 **OF THE CITY OF STONECREST, GEORGIA**, and by the authority thereof:

31
32 **Section 1.** The City of Stonecrest Code of Ordinances, Article III, Division 2, Section 16-
33 54 is hereby amended and enacted as follows.

34 **Section 2.** Exhibit B hereto provides a reprint of the prior Code language being replaced
35 by the language in Exhibit A and is included herein for reference purposes only.

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

38 **Section 4.** (a) It is hereby declared to be the intention of the Mayor and City Council that
39 all sections, paragraphs, sentences, clauses, and phrases of this Ordinance are or were, upon their
40 enactment, believed by the Mayor and City Council to be fully valid, enforceable, and
41 constitutional.

(b) 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.

(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 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 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.

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

ORDAINED this _____ day of _____, 2022.

[SIGNATURES TO FOLLOW]

68

CITY OF STONECREST, GEORGIA

Jazzmin Cobble, Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney

EXHIBIT “A”
(The “New” Language Being Added)

Sec. 16-54. – Marijuana possession.

(a) It shall be unlawful for any person to possess or have under his control within the city one ounce or less of marijuana.

(b) For the purposes of this section, the term "marijuana" means all parts of the plant of the genus cannabis, whether growing or not, the seeds thereof, the resin extracted from any part of such plant, and every compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds, or resin, and shall not include the mature stalks of such plant, fiber produced from such stalks, oil, or cake, or the completely sterilized samples of seeds of the plant which are incapable of germination.

(c) Exceptions. The appropriate use of legally prescribed marijuana is not prohibited. The term "legally prescribed" means that the individual has a prescription or other written approval from a physician for the use of a drug in the course of medical treatment. It must include the patient's name, the name of the substance, quantity/amount to be taken, and the period of authorization.

(d) Any person found guilty of violating this section shall be punished by a fine not exceeding \$100.00, and shall not be punished by imprisonment for any term; provided that any defendant charged with possession of one ounce or less of marijuana shall be entitled on request to have the case against such defendant transferred to the court having general misdemeanor jurisdiction in the county wherein the alleged offense occurred.

Possession of marijuana, O.C.G.A. § 16-13-30.

EXHIBIT “B”
(The “Old” Language Being Removed)

Sec. 16-54. - Marijuana possession.

(a)It shall be unlawful for any person to possess or have under his control within the city one ounce or less of marijuana.

(b)For the purposes of this section, the term "marijuana" means all parts of the plant of the genus cannabis, whether growing or not, the seeds thereof, the resin extracted from any part of such plant, and every compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds, or resin, and shall not include the mature stalks of such plant, fiber produced from such stalks, oil, or cake, or the completely sterilized samples of seeds of the plant which are incapable of germination.

(c)Exceptions. The appropriate use of legally prescribed marijuana is not prohibited. The term "legally prescribed" means that the individual has a prescription or other written approval from a physician for the use of a drug in the course of medical treatment. It must include the patient's name, the name of the substance, quantity/amount to be taken, and the period of authorization.

(d)Any person charged with a violation of this section shall be entitled, upon request, to have the case against him transferred to the State Court of DeKalb County, to be prosecuted and tried as a misdemeanor in that court.