

STATE OF GEORGIA  
COUNTY OF DEKALB  
CITY OF STONECREST

ORDINANCE NO. \_\_\_\_\_

1 AN ORDINANCE TO AMEND THE CODE OF ORDINANCES, CITY OF  
2 STONECREST, GEORGIA, BY AMENDING DIVISION 3 (ZONING AND  
3 COMPREHENSIVE PLAN AMENDMENTS AND PROCEDURES) OF  
4 ARTICLE 7 ADMINISTRATION WITHIN CHAPTER 27 (ZONING  
5 ORDINANCE); TO PROVIDE SEVERABILITY; TO PROVIDE A PENALTY; TO  
6 PROVIDE FOR REPEAL OF CONFLICTING ORDINANCES AND RESOLUTIONS; TO  
7 PROVIDE AN ADOPTION AND EFFECTIVE DATE; AND TO PROVIDE FOR OTHER  
8 LAWFUL PURPOSES.

9 WHEREAS, the governing body of the City of Stonecrest, Georgia (“City”) is the Mayor  
10 and Council thereof; and

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

13 WHEREAS, the governing authority of the City is authorized by O.C.G.A. § 36-35-3 to  
14 adopt ordinances relating to its property, affairs, and local government; and

15 WHEREAS, the Mayor and Council desire to amend Division 3 (Zoning and  
16 Comprehensive Plan Amendments and Procedures) within Article 7 (Administration) of Chapter  
17 27 (Zoning Ordinance) of the City’s Code; and

18 WHEREAS, from time-to-time amendments may be proposed for public necessity,  
19 general welfare, or sound zoning practice that justify such action; and

20           **WHEREAS**, the Director of Planning and the Planning Commission can recommend  
21 approval based on the City Staff Report; and

22           **WHEREAS**, a public hearing pursuant to the provisions of the Zoning Procedures Act has  
23 been properly held prior to the adoption of this Ordinance; and

24           **WHEREAS**, the health, safety, morals and general welfare of the citizens of the City will  
25 be positively impacted by the adoption of this Ordinance.

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

28           **Section 1.** The Code of Ordinances of the City of Stonecrest, Georgia is hereby amended  
29 by amending Division 3 (Zoning and Comprehensive Plan Amendments and Procedures) within  
30 Article 7 (Administration) of Chapter 27 (Zoning Ordinance) by adopting the provisions set forth  
31 in **Exhibit A** attached hereto and made a part by reference.

32           **Section 2.** That text added to current law appears in bold underlined. Text removed from  
33 current law appears struck through.

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

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

39 (b) It is hereby declared to be the intention of the Mayor and Council that, to the greatest extent  
40 allowed by law, each and every section, paragraph, sentence, clause or phrase of this Ordinance is  
41 severable from every other section, paragraph, sentence, clause or phrase of this Ordinance. It is  
42 hereby further declared to be the intention of the Mayor and Council that, to the greatest extent

43 allowed by law, no section, paragraph, sentence, clause or phrase of this Ordinance is mutually  
44 dependent upon any other section, paragraph, sentence, clause or phrase of this Ordinance.

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

54 **Section 5.** All ordinances and parts of ordinances in conflict herewith are hereby expressly  
55 repealed.

56 **Section 6.** The Ordinance shall be codified in a manner consistent with the laws of  
57 the State of Georgia and the City of Stonecrest.

**Section 7.** 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 \_\_\_\_\_, 2022.

**[SIGNATURES TO FOLLOW]**

**CITY OF STONECREST, GEORGIA**

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**George Turner, Mayor Pro Tem**

**ATTEST:**

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**City Clerk**

**APPROVED AS TO FORM:**

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**City Attorney**

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**EXHIBIT A**  
**(SEE ATTACHED)**

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100 ARTICLE 7. - ADMINISTRATION

101 DIVISION 3. – ZONING AND COMPREHENSIVE PLAN AMENDMENTS AND PROCEDURES

102 **Sec. 7.3.7. Action by the planning commission.**

103 The secretary of the planning commission shall provide the members of the planning  
104 commission complete information on each proposed application requiring a public hearing by  
105 the planning commission, including a copy of the application and all supporting materials. The  
106 planning commission, after conducting a public hearing with prior public notice as required by  
107 this article, shall consider the proposal and vote on its recommendation to the city council. **Any**  
108 **recommendation** ~~of deferral of an application~~ by the planning commission shall not be binding  
109 on the city council. The planning commission may recommend approval of the application,  
110 **recommend** approval to a less intense zoning district or land use category than that requested  
111 by the applicant, **recommend** approval of the application with conditions, **recommend** denial of  
112 the application, **recommend** deferral of the application, or, upon request of the applicant,  
113 **recommend** withdrawal of the application without prejudice. In its recommendation of any  
114 application, the planning commission may recommend the imposition of conditions in  
115 accordance with section 7.3.9. All findings and recommendations of the planning commission  
116 relating to amendments to the official zoning map shall be made based on each of the standards  
117 and factors contained in section 7.3.5. All recommendations of the planning commission relating  
118 to amendments to the comprehensive plan maps shall be made based on each of the standards  
119 and factors contained in section 7.3.4. The secretary of the planning commission shall make and  
120 maintain a written record of the planning commission's consideration and recommendations,  
121 which shall be public record.

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## PLANNING & ZONING STAFF REPORT

**MEETING DATE: December 7, 2021**

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### GENERAL INFORMATION

**Petition Number:** TMOD-21-014

**Applicant:** Stonecrest Planning and Zoning Department

**Project Location:** City-Wide

**Proposed amendment:** Amendment to Stonecrest Zoning Ordinance, Chapter 27, Article 7 – Administration concerning the actions by the Planning Commission

### FACTS AND ISSUES:

- At a recent work session, the City Council has requested that the provisions of the Article 7 of the Stonecrest Zoning Ordinance be revised to clarify the role and intent of all motions made by the Planning Commission.
- In particular, they want to limit all motions made by the Planning Commission to recommendations only to the City Council in keeping with their role as a recommending body. This would remove the ability of the Planning Commission to defer action on case before transmittal of the case to City Council.

### Recommended Text Changes

Proposal: Clarify the list of motions that the Planning Commission can make at a public hearing.

Reasons for proposal: To simplify the and shorten the rezoning process.

Track Changes version of recommended changes

#### **Sec. 7.3.7. Action by the planning commission.**

The secretary of the planning commission shall provide the members of the planning commission complete information on each proposed application requiring a public hearing by the planning commission, including a copy of the application and all supporting materials. The planning commission, after conducting a public hearing with prior public notice as required by this article, shall consider the proposal and vote on its recommendation to the city council. Any



TMOD-21-014

## PLANNING & ZONING STAFF REPORT

~~recommendation of deferral of an application~~ by the planning commission shall not be binding on the city council. The planning commission may recommend approval of the application, recommend approval to a less intense zoning district or land use category than that requested by the applicant, recommend approval of the application with conditions, recommend denial of the application, recommend deferral of the application, or, upon request of the applicant, recommend withdrawal of the application without prejudice. In its recommendation of any application, the planning commission may recommend the imposition of conditions in accordance with section 7.3.9. All findings and recommendations of the planning commission relating to amendments to the official zoning map shall be made based on each of the standards and factors contained in section 7.3.5. All recommendations of the planning commission relating to amendments to the comprehensive plan maps shall be made based on each of the standards and factors contained in section 7.3.4. The secretary of the planning commission shall make and maintain a written record of the planning commission's consideration and recommendations, which shall be public record.

**RECOMMENDED ACTION:** Recommend Approval of TMOD-21-0141.