

**STATE OF GEROGIA
DEKALB COUNTY
CITY OF STONECREST**

ORDINANCE NO. ____ - _____

AN ORDINANCE TO AMEND THE CODE OF ORDINANCES, CITY OF STONECREST, GEORGIA, BY AMENDING DIVISION 1 (OVERVIEW OF USE CATEGORIES AND USE TABLE), DIVISION 2 (SUPPLEMENTAL USE REGULATIONS) AND DIVISION 5 (STONECREST AREA OVERLAY DISTRICT) OF ARTICLE 3 (OVERLAY DISTRICT), ARTICLE 4 (USE REGULATIONS), ARTICLE 6 (PARKING) AND ARTICLE 9 (DEFINITIONS) WITHIN CHAPTER 27 (ZONING ORDINANCE); AND BY AMENDING DIVISION 3 (ENFORCEMENT, MEASUREMENT OF SOUND, ADMINISTRATION, VIOLATIONS AND PENALTIES) OF ARTICLE 8 (CLEANINDOOR AIR) WITHIN CHAPTER 18 (NUISANCES); 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 PUPOSES.

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

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

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

WHEREAS, the Mayor and City Council desire to amend Division 1 (Overview of Use

Categories and Use Table), Division 2 (Supplemental Use Regulations) and Division 5 (Stonecrest Area Overlay District) of Article 3 (Overlay District), Article 4 (Use Regulations), Article 6 (Parking) and Article 9 (Definitions) within Chapter 27 (Zoning Ordinance); and

WHEREAS, the Mayor and City Council desire to amend Division 3 (Enforcement, Measurement of Sound, Administration, Violations and Penalties) of Article 8 (Clean Indoor Air) within Chapter 18 (Nuisances); and

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

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

WHEREAS, a public hearing pursuant to the provisions of the Zoning Procedures Act has been properly held prior to the adoption of this Ordinance; 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 by amending Division 1 (Overview of Use Categories and Use Table), Division 2 (Supplemental Use Regulations) and Division 5 (Stonecrest Area Overlay District) of Article 3 (Overlay District), Article 4 (Use Regulations), Article 6 (Parking) and Article 9 (Definitions) within Chapter 27 (Zoning Ordinance) by adopting the provisions set forth in Exhibit A attached hereto and made a part by reference.

66 **Section 2.** The Code of Ordinances of the City of Stonecrest, Georgia is hereby amended
67 by amending Division 3 (Enforcement, Measurement of Sound, Administration, Violations and
68 Penalties) of Article 8 (Clean Indoor Air) within Chapter 18 (Nuisances) by adopting the
69 provisions set forth in Exhibit B attached hereto and made a part by reference.

70 **Section 3.** That text added to current law appears in **red, bold and underlined**. Text
71 removed from current law appears as **red, bold and strikethrough**.

72 **Section 4.** The preamble of this Ordinance shall be considered to be and is hereby
73 incorporated by reference as if fully set out herein.

74 **Section 5.** (a) It is hereby declared to be the intention of the Mayor and Council that all
75 sections, paragraphs, sentences, clauses, and phrases of this Ordinance are or were, upon their
76 enactment, believed by the Mayor and Council to be fully valid, enforceable and constitutional.

77 (b) It is hereby declared to be the intention of the Mayor and Council that, to the greatest extent
78 allowed by law, each and every section, paragraph, sentence, clause or phrase of this Ordinance is
79 severable from every other section, paragraph, sentence, clause or phrase of this Ordinance. It is
80 hereby further declared to be the intention of the Mayor and Council that, to the greatest extent
81 allowed by law, no section, paragraph, sentence, clause, or phrase of this Ordinance is mutually
82 dependent upon any other section, paragraph, sentence, clause, or phrase of this Ordinance.
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85 (c) In the event that any phrase, clause, sentence, paragraph, or section of this Ordinance shall, for
86 any reason whatsoever, be declared invalid, unconstitutional, or otherwise unenforceable by the
87 valid judgment or decree of any court of competent jurisdiction, it is the express intent of the
88 Mayor and Council that such invalidity, unconstitutionality or unenforceability shall, to the
89 greatest extent allowed by law, not render invalid, unconstitutional or otherwise unenforceable any
90 of the remaining phrases, clauses, sentences, paragraphs or section of the Ordinance and that, to
91 the greatest extent allowed by law, all remaining phrases, clauses, sentences, paragraphs and
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97 sections of the Ordinance shall remain valid, constitutional, enforceable, and of full force and
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99 effect.

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101 **Section 6.** The City Clerk, with the concurrence of the City Attorney, is authorized to
102 correct any scrivener's errors found in this Ordinance, including its exhibits, as enacted.

103 **Section 7.** All ordinances and parts of ordinances in conflict herewith are hereby expressly
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105 repealed.

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107 **Section 8.** The Ordinance shall be codified in a manner consistent with the laws of the
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109 State of Georgia and the City of Stonecrest.

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111 **Section 9.** It is the intention of the governing body, and it is hereby ordained that the
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113 provisions of this Ordinance shall become and be made part of the Code of Ordinances, City of
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115 Stonecrest, Georgia.

ORDAINED this _____ day of _____, 2022.

[SIGNATURES TO FOLLOW]

CITY OF STONECREST, GEORGIA

George Turner, Mayor Pro Tem

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney

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EXHIBIT A
(SEE ATTACHED)

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CHAPTER 27: ZONING ORDINANCE

ARTICLE 3 – OVERLAY DISTRICT

DIVISION 5. STONECREST AREA OVERLAY DISTRICT

Sec. 3.5.15.2. Cluster village mixed-use zone (Tier V).

Permitted principal uses and structures. All properties in Tier V shall be governed by all of the underlying zoning district regulations and the requirements of this section. In addition, all properties in Tier V may be used for the following principal uses of land and structures:

1. Adult day ~~center care facility~~.
2. Bed and breakfast.
3. Child day care facility.
4. Assembly hall.
5. Cultural facility.
6. Detached single-family dwelling.
7. Office uses.
8. Personal care facility.
9. Place of worship.
10. Retail, excluding drive-through facilities, automobile service stations, commercial amusements, convenience store, liquor stores, package store, and recreation, indoor.
11. Office/medical.
12. Personal services establishment.

(Ord. of 8-2-2017, § 1(3.5.15.2); Ord. No. 2019-11-001, § 1, 11-25-2019)

167 CHAPTER 27: ZONING ORDINANCE

168 ARTICLE 4 – USE REGULATIONS

169 DIVISION 1. OVERVIEW OF USE CATEGORIES AND USE TABLE

170 **Sec. 4.1.3. Use table.**

171 **Table 4.1. Use Table**

	KEY: P - Permitted use Pa - Permitted as an accessory use										SA - Special administrative permit from Community Development Director SP - Special land use permit (SLUP)															
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 IT	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 Sec tio n 4.2	
Services																										
Adult day care center — 73 or more								P	P	P	P		P	P	P	P	P	P	P			P	P	P	✓	
Adult day care facility — Up to 6	S P	S P	S P	S P	S P	S P	SP	S P	S P	SP		S P			P	P	P	P			P	P	P	P	✓	

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(Ord. of 8-2-2017, § 1(4.1.3); Ord. No. 2018-09-01, § 00, 9-17-2018; Ord. No. 2019-06-01, § (Exh. A), 6-10-2019)

CHAPTER 27: ZONING ORDINANCE

ARTICLE 4 – USE REGULATIONS

DIVISION 2. SUPPLEMENTAL USE REGULATIONS

~~Sec. 4.2.4. Adult daycare center (seven or more clients).~~

~~Each adult daycare center shall be subject to the following requirements:~~

~~A. All outdoor recreation areas shall be enclosed by a fence or wall not less than four feet in height.~~

~~B. Each adult daycare center shall provide off-street parking spaces as required by the applicable zoning district and an adequate turnaround on the site.~~

~~(Ord. of 8-2-2017, § 1(4.2.4))~~

Sec. 4.2.5. Adult Day Center ~~daycare facility~~ (~~three or more up to six~~ clients).

Each Adult Day Center ~~adult daycare facility~~ shall be subject to the following requirements:

- A. All outdoor recreation areas shall be enclosed by a fence or wall not less than four feet in height.
- B. Each Adult Day Center ~~adult daycare facility~~ shall provide off-street parking spaces as required by the applicable zoning district.
- C. No Adult Day Center ~~adult daycare facility~~ shall be located within 1,000 feet of another adult day~~care~~ center facility.
- D. No Adult Day Center ~~adult daycare facility~~ may be established and operated until a permit to do so has been obtained in accordance with the procedures set forth below.
 1. Permit application. Persons seeking to operate an Adult Day Center ~~adult daycare facility~~ in the city must file a permit application with the planning department. Each application shall also be accompanied by the applicant's affidavit certifying the maximum number of adults that will be served simultaneously and that the proposed Adult Day Center ~~adult daycare facility~~ will meet and be operated in compliance with all applicable state laws and regulations and with all ordinances and regulations of the city. The planning department may require clarification or additional information from the applicant that is deemed necessary by the city to determine whether the proposed service will meet applicable laws, ordinances and regulations.
 2. Notwithstanding the above provisions, if a proposed Adult Day Center ~~adult daycare facility~~ is subject to the requirement that the applicant obtain a certificate of registration from the state department of human resources, and even though the application may have been approved under the provisions of this section, a permit for the operation of such facility shall not be issued until proof has been submitted by the applicant that the certificate of registration has first been obtained from the state.

(Ord. of 8-2-2017, § 1(4.2.5))

CHAPTER 27: ZONING ORDINANCE

ARTICLE 6 – PARKING

Sec. 6.1.4. Off-street parking ratios.

Table 6.2. Off-street Parking Ratios

Minimum and Maximum Parking Spaces		
Use	Minimum Parking Spaces Required	Maximum Parking Spaces Allowed
<i>Residential</i>		
Adult daycare facility	Two spaces.	Four spaces.
<i>Commercial</i>		
Adult daycare facility-Center	Two spaces.	Four spaces.

(Ord. of 8-2-2017, § 1(6.1.4))

CHAPTER 27: ZONING ORDINANCE

ARTICLE 9 – DEFINITIONS

Sec. 9.1.3. Defined terms.

~~Adult daycare center means an establishment operated by any person with or without compensation for providing for the care, supervision, and oversight only during day-time hours of seven or more adults who are elderly, physically ill or infirm, physically handicapped, or mentally handicapped. The term "adult daycare center" may also include recreational and social activities for said persons.~~

~~Adult daycare facility means an establishment operated by any person with or without compensation for providing for the care, supervision, and oversight only during day-time hours of six or fewer adults who are elderly, physically ill or infirm, physically handicapped, or mentally handicapped. The term "adult daycare facility" may also include recreational, cultural and social activities for said persons.~~

Adult day care means the provision of a comprehensive plan of services that meets the needs of aging adults, under a social model. This term shall not include programs which provide day habilitation and treatment services exclusively for individuals with developmental disabilities.

Adult day center means a facility serving aging adults that provides adult day care or adult day health services for compensation, to three or more persons. This term shall not include a respite care services program.

Adult day health services means the provision of a comprehensive plan of services that meets the needs of aging adults under a medical model. This term shall not include programs which provide day habilitation and treatment services exclusively for individuals with developmental disabilities.

Aging adults means persons 60 years of age or older or mature adults below the age of 60 whose needs and interests are substantially similar to persons 60 years of age or older who have physical or mental limitations that restrict their abilities to perform the normal activities of daily living and impede independent living.

242 Medical model means a comprehensive program that provides aging adults with the basic social,
243 rehabilitative, health, and personal care services needed to sustain essential activities of daily living
244 and to restore or maintain optimal capacity for self-care. Such program of care shall be based on
245 individual plans of care and shall be provided for less than 24 hours per day.

246 Social model means a program that addresses primarily the basic social and recreational activities
247 needed to be provided to aging adults, but also provides, as required, limited personal care
248 assistance, supervision, or assistance essential for sustaining the activities of daily living. Such
249 programs of care shall be based on individual plans of care and shall be provided for less than 24
250 hours per day.

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EXHIBIT B
(SEE ATTACHED)

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254 **CHAPTER 18: NUISANCES**

255 **ARTICLE 8 – CLEAN INDOOR AIR**

256 **DIVISION 3. ENFORCEMENT, MEASUREMENT OF SOUND, ADMINISTRATION**
257 **VIOLATIONS AND PENALTIES**

258 **Sec. 18-73. Definitions.**

259 *Place of employment* means an enclosed area under the control of a public or private employer that
260 employees utilize during the course of employment, including, but not limited to, work areas, employee lounges,
261 restrooms, conference rooms, meeting rooms, classrooms, employee cafeterias, and hallways. A private residence
262 is not a place of employment unless it is used as a licensed childcare, ~~adult daycare~~, or health care facility. The
263 term "place of employment" shall not include vehicles used in the course of employment.

264 *Public place* means an enclosed area to which the public is invited or in which the public is permitted,
265 including, but not limited to, banks, bars, educational facilities, health care facilities, laundromats, public
266 transportation facilities, reception areas, restaurants, retail food production and marketing establishments, retail
267 service establishments, retail stores, shopping malls, sports arenas, theaters, and waiting rooms. A private
268 residence is not a public place unless it is used as a licensed childcare, ~~adult daycare~~ or health care facility.

269 (Ord. No. 2018-06-04, § 18-73, 6-4-2018)

270 **Sec. 18-77. Exemptions.**

271 (a) The smoking prohibition shall not apply in the following areas:

272 (1) Private residences, including private residences which may serve as an office workplace, except if used
273 as a childcare, ~~adult daycare~~ or a health care facility.

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275 (Ord. No. 2018-06-04, § 18-77, 6-4-2018)