

STATE OF GEORGIA

CITY OF STONECREST

ORDINANCE NO. ____-_____

AN ORDINANCE BY THE MAYOR AND CITY COUNCIL OF THE CITY OF STONECREST, GEORGIA TO REMOVE CERTAIN CONDITIONS ON PROPERTY LOCATED AT 6513 MARSHALL BOULEVARD (PARCEL ID 16 123 01 019) THAT RESTRICT ANY ADDITIONAL USES ON THE PROPERTY; ADDING NEW CONDITIONS TO CONSTRUCT A BUILDING FOR THE USE OF A WINDSHIELD REPAIR BUSINESS; TO PROVIDE SEVERABILITY; TO PROVIDE FOR REPEAL OF CONFLICTING ORDINANCES; TO PROVIDE FOR AN ADOPTION AND EFFECTIVE DATE; AND TO PROVIDE FOR OTHER LAWFUL PURPOSES.

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 rezone 6513 Marshall Boulevard (Parcel ID 16 123 01 019) by removing conditions approved by the DeKalb County Board of Commissioners that restrict any additional uses on the property and add new conditions to construct a building for the use of a windshield repair business; and

WHEREAS, Sec. 7.3.10.(Modifications and changes to approved conditions of zoning.), DIVISION 3.(Zoning and Comprehensive Plan Amendments and Procedures), Article

7.(Administration) of Chapter 27(Zoning Ordinance) states any major changes to conditions attached to an approved zoning amendment shall require an application and public hearings before the planning commission and the city council, as required in section 7.2.4 of this Article for amendments to the official zoning map without limiting the meaning of the phrase, the following shall be deemed to constitute major changes: any change to conditions, except minor changes, as defined in subsection A. of this section, imposed by the city council when approving any change to the official zoning map, commonly referred to as a rezoning or a zoning amendment.; and

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

WHEREAS, the Planning and Zoning Department recommends approval of the modifications of conditions for 6513 Marshall Boulevard; and

WHEREAS, the matter was heard in the City’s Community Planning Information Meeting pursuant to the provisions of the City’s Zoning Procedures Law; and

WHEREAS, a public hearing and recommendation pursuant to the provisions of the City’s Zoning Procedures Law has been provided by the Planning Commission; and

WHEREAS, a public hearing pursuant to the provisions of Georgia’s Zoning Procedures Law has been properly held by the City Council 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. That certain conditions on property located at 6513 Marshall Boulevard (Parcel ID 16 123 01 019) that restrict any additional uses on the property shall be removed and conditions

to allow construction of a building for the use of a windshield repair business shall be added or as described on the staff report attached as Exhibit A.

Section 2. That the conditions shall be amended as follows:

1. The 200foot Transitional Buffer shall be maintained in a natural state.
2. ~~Approval shall be based on the submitted site plan dated April 6, 2007, entitled Preliminary Site Plan #2R, prepared by Planners and Engineers Collaborative,~~ with the construction of eight (8) foot high metal (painted sound) wall, subject to approval of the Planning and Development Department.
3. Noise levels shall be in strict compliance to the DeKalb County Code of Ordinances.
4. No additional curb cuts shall be allowed on Marshall Blvd. Access shall be from the existing drive of Marshall Blvd used by the current business.
5. No overnight parking or storage of repaired vehicles on the property.
6. Must adhere to the all-applicable stream buffer and setback requirements (as applicable.)

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 _____, 2024.

CITY OF STONECREST, GEORGIA

Jazzmin Cobble, Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney

EXHIBIT A