

**STATE OF GEORGIA
COUNTY OF DEKALB
CITY OF STONECREST**

ORDINANCE ____ - _____

1 **AN ORDINANCE TO AMEND CHAPTER 15 (LICENSES, PERMITS AND**
2 **MISCELLANEOUS BUSINESS REGULATIONS) OF THE CITY OF STONECREST**
3 **CODE OF ORDINANCES BY ADDING ARTICLE XX (HOURS OF OPERATION BASED**
4 **ON USE); TO AMEND HOURS OF OPERATION FOR BUSINESSES OPERATING**
5 **WITHIN THE CITY OF STONECREST; TO PROVIDE FOR SEVERABILITY; TO**
6 **REPEAL CONFLICTING ORDINANCES; TO PROVIDE AN ADOPTION DATE; TO**
7 **PROVIDE AN EFFECTIVE DATE; AND TO PROVIDE FOR OTHER LAWFUL**
8 **PURPOSES.**

9 **WHEREAS**, the City of Stonecrest, Georgia (the “City”) is a municipal corporation
10 created under the laws of the State of Georgia; and

11 **WHEREAS**, the duly elected governing authority of the City is the Mayor and Council
12 (“City Council”) thereof; and

13 **WHEREAS**, the City Council shall have the authority to adopt and provide for the
14 execution of such ordinances, resolutions, policies, rules, and regulations, which it shall deem
15 necessary, expedient, or helpful for the peace, good order, protection of life and property, health,
16 welfare, sanitation, comfort, convenience, prosperity, or well-being of the inhabitants of the City
17 of Stonecrest and may enforce such ordinances by imposing penalties for violation thereof; and

18 **WHEREAS**, CHAPTER 15 (LICENSES, PERMITS AND MISCELLANEOUS
19 BUSINESS REGULATIONS) of the City of Stonecrest Code of Ordinances governs business
20 compliance within the City; and

21 **WHEREAS**, the City desires to amend the operating hours for businesses throughout the
22 City; and

23 **WHEREAS**, the health, safety, and welfare of the citizens of the city will be positively
24 impacted by the adoption of this Ordinance.

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

28 **Section 1.** The Code of Ordinances, City of Stonecrest, Georgia is hereby amended by
29 amending **CHAPTER 15 (LICENSES, PERMITS AND MISCELLANEOUS BUSINESS**
30 **REGULATIONS)** of the City of Stonecrest code of ordinances to change the operating hours for
31 businesses throughout the City of Stonecrest adopting the provisions set forth in Exhibit A attached
32 hereto and made a part by reference.

33 **Section 2.** That the amended ordinance be read and codified as follows with added text in **red**
34 **font, bold and underlined** and deleted text in **red and strikethrough** font.

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

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

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

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

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

56 **Section 5.** The City Clerk, with the concurrence of the City Attorney, is authorized to
57 correct any scrivener's errors found in this Ordinance, including its exhibits, as enacted.

58 **Section 6.** All ordinances and parts of ordinances in conflict herewith are hereby expressly
59 repealed to the extent of the conflict only.

60 **Section 7.** The effective date of this Ordinance shall be the date of its adoption by the
61 Mayor and Council unless otherwise stated herein.

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

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

66 Stonecrest, Georgia and the sections of this Ordinance may be renumbered to accomplish such
67 intention.

SO ORDAINED this ____ day of _____, 2024.

CITY OF STONECREST, GEORGIA

Jazzmin Cobble, Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney

EXHIBIT A

TMOD 24-002 HOURS OF OPERATION BASED ON USE

Chapter 15 LICENSES, PERMITS AND MISCELLANEOUS BUSINESS REGULATIONS

ARTICLE I. IN GENERAL

Sec. 15.1.1. Security information—Required.

All persons subject to the provisions of this chapter shall furnish to the City Manager or his designee, on a form supplied by the City Manager or his designee, any and all information necessary to indicate the security measures located at such person's business, trade or profession and the persons to be notified in the event of an emergency of the business, trade or profession.

(Ord. No. 2017-08-05, § 1(15.1.1), 8-7-2017)

Sec. 15.1.2. Security information—Furnished with license application.

All persons applying for a new or renewal license under the provisions of this chapter shall be required, at the time of application, to furnish the information required in section 15.1.1, and to keep the information current.

(Ord. No. 2017-08-05, § 1(15.1.2), 8-7-2017)

Sec. 15.1.3. Emergency decal.

All persons subject to the provisions of this chapter shall be furnished by the City Manager or his designee with an emergency decal containing thereon a coded number; it shall be the responsibility of the owner, operator or manager of the business to affix the decal to the main entrance of the business. The decal shall be placed at approximate eye level on the main entrance, and if the decal cannot be placed on the main entrance, it shall be placed on the most conspicuous location as close as possible to the main entrance to the business.

(Ord. No. 2017-08-05, § 1(15.1.3), 8-7-2017)

Sec. 15.1.4. Carnivals, sideshows, etc.; permit required prior to issuance of license.

No license shall be granted for the operation of a carnival, sideshow or similar exhibition on a vacant lot or in any open place where performances of any kind are given or where machinery of any kind or devices of any kind are operated for amusement unless a permit is obtained. Applications for this permit, accompanied by a fee in the amount established by action of the City Council, a copy of which is on file in the office of their clerk, shall be filed with the City Manager or his designee. The application shall contain such information as the City Manager or his designee requires.

(Ord. No. 2017-08-05, § 1(15.1.4), 8-7-2017)

Sec. 15.1.5. Table of classification of occupations.

Classification of Occupations

Business Description	NAICS	2017 Class
Accommodation, Food Services, and Drinking Places	72	5
Administrative and Support and Waste Management and Remediation Services	56	3
Agriculture, Forestry, Hunting and Fishing	11	4
Arts, Entertainment and Recreation	71	2
Construction	23	1
Educational Services	61	4
Finance and Insurance	52	6
Health Care and Social Assistance	62	4
Information	51	5
Management of Companies (Holding Companies)	55	6
Manufacturing	31—33	5
Mining	21	2
Scientific, and Technical Services	54	3
Real Estate and Rental and Leasing	53	6
Transportation and Warehousing	48, 49	2
Utilities	22	1
Wholesale and Retail Trade	42, 44, 45	1
Other Services	81	3

(Ord. No. 2017-08-07, § 1, 7-7-2017)

Secs. 15.1.6—15.1.25. Reserved.

ARTICLE II. BUSINESS OCCUPATION TAXES

Sec. 15.2.1. Payment of occupational tax.

- (a) Each person engaged in a business, trade, profession or occupation whether with a location within the city, or in the case of an out-of-state business with no location in Georgia exerting substantial efforts within the city pursuant to O.C.G.A. § 48-13-7 shall pay an occupational tax for said business, trade, profession or occupation.

-
- (b) Occupation taxes shall be based upon gross receipts in combination with profitability ratio and number of employees. The profitability ratio for the type of business will be determined from nationwide averages derived from statistics, classifications or other information published by the United States Office of Management and Budget, the United States Internal Revenue Service or successor agencies of the United States.
- (c) A schedule of specific business occupation taxes, as adopted from time to time by the City Council is on file in the office of the clerk of, and shall be levied and collected in the amount and manner specified by this article.
- (Ord. No. 2017-08-05, § 1(15.2.1), 8-7-2017)

Sec. 15.2.23. Requirement for public hearings.

The city shall conduct at least one public hearing before adopting any ordinance or resolution regarding the occupation tax, and in any year when revenue from occupational taxes is greater than revenue from occupational taxes for the preceding year in order to determine how to use the additional revenue.

(Ord. No. 2017-08-05, § 1(15.2.23), 8-7-2017)

Secs. 15.2.24—15.2.50. Reserved.

ARTICLE III. ASTROLOGERS (RESERVED)

(Ord. No. 2017-08-05, § 2, 8-7-2017)

Secs. 15.4.27—15.4.50. Reserved.

ARTICLE V. PAWNSHOPS

Sec. 15.5.1. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Employee means any person working for an owner or pawnbroker, or any owner or pawnbroker who, in the performance of duties or the management of the business affairs of a pawnshop, comes into substantial contact with members of the public, or is employed on a part-time or full-time basis, either with or without remuneration, by a pawnshop.

Pawn or pledge means a bailment of personal property as security for any debt or engagement, redeemable upon certain terms and with the implied power of sale on default.

Pawnbroker means any person, whether an owner or not, who works in a pawnshop on a regular basis and in a managerial capacity whereby the person has charge of the business or operations of the pawnshop. The term "pawnbroker" includes any person whose business or occupation it is to take or receive, by way of pledge, pawn or exchange, any goods, wares or merchandise or any kind of personal property whatever, as security for the repayment of money lent thereon.

Pawnshop means any business wherein a substantial part thereof is to take or receive, by way of pledge, pawn or exchange, any goods, wares, merchandise or any kind of personal property as security for the repayment of money lent thereon.

(Ord. No. 2017-08-05, § 3(15.5.1), 8-7-2017)

Sec. 15.5.2. Penalties; suspension or revocation of license.

Any person who violates any provision of this article shall, upon conviction, be punished as provided by this Code. Further, any person failing to comply with any provision of this article, or such other laws, ordinances and regulations as may be passed by the City Council for the conduct of the business of a pawnbroker, shall have the license to conduct this business revoked. This revocation shall result from conviction in any court for a violation of any provision of this article or any other ordinance or regulation covering the conduct of the business for which a permit and license have been issued.

(Ord. No. 2017-08-05, § 3(15.5.2), 8-7-2017)

Sec. 15.5.3. Responsibility for enforcement.

The City Manager or his designee shall have the responsibility for the enforcement of this article.

(Ord. No. 2017-08-05, § 3(15.5.3), 8-7-2017)

Sec. 15.5.4. Annual permit.

- (a) All persons, before beginning the business of operating a pawnshop or becoming an employee of a pawnshop or similar place where money is advanced on goods or other effects or merchandise of any kind is taken in pawn, shall first file an application with the City Manager or his designee and obtain an annual permit to conduct or be employed in the business. No permit shall be issued until a fee in the amount established by action of the City Council, a copy of which is on file in the office of the clerk, is paid to the City Manager or his designee.
- (b) The requirements of this section are in addition to the requirements of article II of this chapter.
- (c) The application for the permit required shall state the street and number at which it is proposed to operate the business. The application shall contain the full name, address, phone number, date of birth and Social Security number of all persons, including pawnbrokers, owning any interest in the proposed business, plus any additional information, including fingerprints, deemed necessary by the City Manager.
- (d) No business license shall be issued to a person until the permit required by this section has been granted by the City Manager or his designee.

(Ord. No. 2017-08-05, § 3(15.5.4), 8-7-2017)

Sec. 15.5.5. Employees.

No person shall be employed by a pawnshop in any capacity until such person has been fingerprinted by the City Manager or his designee and has been issued an annual permit authorizing such person to be employed by a pawnshop. It shall be the duty of the pawnbroker to ensure that there is compliance with the provisions of this section.

(Ord. No. 2017-08-05, § 3(15.5.5), 8-7-2017)

Sec. 15.5.6. Character of persons connected with business.

No owner, stockholder, employee, pawnbroker or any other person connected with the business for which a license or permit is sought shall have been convicted of a crime involving moral turpitude or shall have been convicted of any crime involving theft or a crime against property.

(Ord. No. 2017-08-05, § 3(15.5.6), 8-7-2017)

Sec. 15.5.7. Records.

All pawnbrokers shall keep books wherein shall be entered an accurate description of all property at the time of each loan, purchase, or sale. This description shall include, to the extent possible:

- (a) The date of the transaction;
- (b) The name of the person conducting the transaction;
- (c) The name, age, and address of the customer; a description of the general appearance of the customer; and the distinctive number from the customer's driver license or other similar identification card;
- (d) An identification and description of the pledged or purchased goods, including, if reasonably available, the serial, model, or other number, and all identifying marks inscribed thereon;
- (e) The number of the receipt or pawn ticket;
- (f) The price paid or the amount loaned;
- (g) If payment is made by check, the number of the check issued for the purchase price or loan;
- (h) The maturity date of the transaction; and
- (i) The signature of the customer.

These entries shall be made as soon after the transaction as is possible, in no event more than one hour thereafter. The pawnbroker shall photograph the person pawning the merchandise along with a pawnbroker's ticket showing a transaction number. The pawnbroker shall obtain the right index fingerprint, provided it has not been amputated; if so, the next adjoining finger shall be acceptable.

(Ord. No. 2017-08-05, § 3(15.5.7), 8-7-2017)

Sec. 15.5.8. Daily reports; fingerprinting, photographing of persons pawning articles.

- (a) Every pawnbroker shall make a daily report in writing to the City Manager or his designee in such form as may be prescribed by the City Manager or his designee of all property pledged, traded or bought by such pawnbroker during the 24 hours ending at 9:00 p.m. on the date of the report. These reports shall be typewritten. In addition to any other information required by the City Manager or his designee, the reports shall show:
 - (1) The name and address of the pawnbroker.
 - (2) The time of transaction.
 - (3) The serial numbers of pawn tickets.
 - (4) The amount paid or advanced.

-
- (5) A full description of articles, including kind, style, material, color, design; kind and number of stones in jewelry and all identifying names, marks and numbers.
 - (6) A description of the person selling or pawning, including name, address, race, weight and height.
 - (b) Insufficient reports shall be rejected, and any pawnbroker making them shall be deemed guilty of an offense.
 - (c) In addition to the other records and information, each pawnbroker shall obtain from each person pawning any articles with such pawnbroker the fingerprint of the right-hand index finger, unless this finger is missing, in which event the print of the next finger in existence on the right hand of the person pawning the articles shall be obtained with a notation as to the exact finger printed. All prints shall be made on forms approved by the City Manager or his designee and the pawnbroker shall obtain all other information called for on the form approved. Fingerprints and the information as required in this section shall be obtained from all persons each time these persons pawn any article with a pawnbroker, regardless of whether the person may have previously pawned an article with the pawnbroker and been fingerprinted.
 - (d) In addition to other records and information, each pawnbroker shall photograph each customer with the photograph showing the pawnbroker's ticket and transaction number. This photograph shall be reduced to a negative form and maintained by the pawnbroker as a permanent record.

(Ord. No. 2017-08-05, § 3(15.5.8), 8-7-2017)

Sec. 15.5.9. Hours of operation.

Pawnbrokers may not keep open their places of business except between 7:10:00 a.m. and 9:00 p.m., Monday through Saturday.

(Ord. No. 2017-08-05, § 3(15.5.9), 8-7-2017)

Sec. 15.5.10. Waiting period prior to disposal of articles.

Any pawnbroker or person operating under a pawnbroker's license who takes goods on pawn or buys goods, taking full title thereto, the term "goods" being used in the broadest sense and including all kinds of personal property, shall hold these goods so taken in pawn or purchase for at least 30 days before disposing of them by sale, transfer, shipment or otherwise.

(Ord. No. 2017-08-05, § 3(15.5.10), 8-7-2017)

Sec. 15.5.11. Dealing with minors.

It is unlawful for any pawnbroker, the pawnbroker's agents or employees to receive goods in pawn from minors.

(Ord. No. 2017-08-05, § 3(15.5.11), 8-7-2017)

Secs. 15.5.12—15.5.50. Reserved.

ARTICLE VI. PRECIOUS METAL DEALERS

DIVISION 1. GENERALLY

Sec. 15.6.1. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Dealer means any person engaged in the business of purchasing precious metals or gems or goods made from precious metals or gems from persons or sources other than manufacturers or manufacturers' representatives or other dealers in precious metals or gems or a person engaged in any other business if, in conjunction with such business, precious metals or gems or goods made from precious metals or gems are purchased from persons or sources other than manufacturers or manufacturers' representatives or other dealers in precious metals or gems when the purchase is for resale in its original form or is changed by remounting, melting, reforming, remolding or recasting, or for resale as scrap or in bulk.

Employee means any person working for a dealer, whether or not the person is in the direct employment of the dealer, who, in the performance of duties or the management of the business affairs of the dealer, handles precious metals or gems, or who prepares any reports or records which are required by this article. The term "employee" does not include any employee of any bank, armored car company, private security company, or other business entity which is acting in the sole capacity of bailee-for-hire in relationship to the dealer.

Gem means any precious or semiprecious stone which is cut and polished.

Precious metal means gold, silver, platinum or any alloy containing gold, silver or platinum.

Purchase means buy, barter, trade, accept as collateral for a loan, or receive for the purpose of melting down, crushing or otherwise altering the appearance of the item.

(Ord. No. 2017-08-05, § 3(15.6.1), 8-7-2017)

Sec. 15.6.2. Purpose; applicability of state law.

The purpose of this article is to regulate and establish qualifications for dealers of precious metals, gems and goods made from precious metals and gems, who engage in business in the city. It is a further purpose of this article to enhance and supplement state law. Any permit fee required by the terms of this article shall be collected in addition to any license or registration fee as may be imposed on dealers by any state law.

(Ord. No. 2017-08-05, § 3(15.6.2), 8-7-2017)

Sec. 15.6.3. Exemptions.

- (a) The provisions of this article shall not apply to dealers exclusively engaged in the sale or exchange of numismatic coins or to transactions exclusively involving numismatic coins or other coinage.
- (b) The provisions of this article shall not apply to pawnshops, pawnbrokers, or employees of pawnbrokers who maintain permanent places of business within the city and are in compliance with article V of this chapter.

(Ord. No. 2017-08-05, § 3(15.6.3), 8-7-2017)

Sec. 15.6.4. Violations.

- (a) It is unlawful for any dealer or employee to violate any of the provisions of this article, whether or not such dealer or employee is the holder of a current, valid permit issued according to the terms of this article. It shall be a violation of this article for any person to:

-
- (1) Make any false statement in an application for any permit provided for in this article.
 - (2) Make any false entry in any record or form required by the terms of this article.
 - (3) Violate any criminal law of this state while acting in the course of business as a dealer or employee of a dealer.
- (b) Willful violation of any of the provisions of this article shall be grounds for revocation of the dealer's business license.
- (Ord. No. 2017-08-05, § 3(15.6.4), 8-7-2017)

Sec. 15.6.5. Responsibility for enforcement.

The code enforcement department of the city shall have the responsibility for the enforcement of this article.

(Ord. No. 2017-08-05, § 3(15.6.5), 8-7-2017)

Sec. 15.6.6. Records of transactions.

- (a) Every dealer shall maintain a book in permanent form in which shall be entered at the time of each purchase of precious metals or gems or goods made from precious metals or gems, the following:
- (1) The date and time of the purchase transaction.
 - (2) The name of the person making the purchase from the seller.
 - (3) The name, age and address of the seller of the items purchased and the distinctive number from each seller's driver license or other similar identification card containing a photo of the seller.
 - (4) A clear and accurate identification and description of the purchased goods, including the serial model or other number, and all identifying marks ascribed thereon.
 - (5) The price paid for the goods purchased.
 - (6) The number of the check issued for the purchase price if payment is made by check.
 - (7) The signature of the seller.
- (b) The permanent record book required in this section shall be in legible English. Entries shall appear in chronological order, and shall be numbered in sequence. No blank lines may be left between entries. No obliterations, alterations or erasures may be made. Corrections shall be made by drawing a line of ink through the entry without destroying its legibility. The book shall be maintained for each purchase of precious metals or gems or goods made from precious metals or gems for at least two years. The book shall be open to the inspection of any duly authorized law enforcement officer during the ordinary hours of business or any reasonable time. The book shall be kept at the business premises during ordinary hours of business.
- (c) Dealers exclusively engaged in buying or exchanging for merchandise scrap dental gold and silver from licensed dentists by registered or certified mail may record the post office record of the mail parcel in lieu of the seller's age, driver license number and signature as required in this section.
- (Ord. No. 2017-08-05, § 3(15.6.6), 8-7-2017)

Sec. 15.6.7. Daily reports.

- (a) Every dealer shall record, on cards or forms furnished or approved by the police department the details of each purchase of precious metals or gems or goods made from precious metals or gems. These records shall be entered in legible English at the time of each purchase of such items, and each card or form shall bear the number of the corresponding entry made in the book required by section 15.6.6 of this article. Each record shall include such information as may be reasonably required by the police department and shall include, as a minimum, the following:
 - (1) An accurate description of all articles received in the transaction with the particular seller. This description shall include to the extent possible the maker of each article, any identifying mark, number or initials, any pattern or shape, and a statement of the kind of materials of which it is composed.
 - (2) The date and time of the transaction.
 - (3) The name and address of the dealer.
 - (4) The name of the person making the purchase.
 - (5) The full name, date of birth and address, race and gender of the seller, as well as a general description of the seller.
 - (6) The number of the seller's valid state driver license or state-issued I.D. card, or other similar identification which bears a photograph of the seller.
 - (7) Signature of seller.
 - (8) Such other information as may be required by any state law regulating dealers of precious metals and gems.
- (b) Each card or form required by this section shall be delivered or mailed to the police department within 24 hours after the date on which the transaction occurred, and shall be handled in the following manner:
 - (1) All such forms or cards shall be maintained in a locked container under the direct supervision of the police department and shall be available for inspection only for law enforcement purposes.
 - (2) The police department may allow any person to inspect the records for the purpose of locating stolen property, providing such person demonstrates theft of precious metals or gems by presenting an incident report or other similar document.

(Ord. No. 2017-08-05, § 3(15.6.7), 8-7-2017)

Sec. 15.6.8. Photographs of articles and sellers; photocopies of documents.

- (a) Every dealer shall take a well-focused, properly exposed color photograph of all precious metals, gems or goods made from precious metals or gems, which are purchased by the dealer. In the case of flatware, a photograph may be made of a representative place setting.
- (b) In addition to photographing the items purchased, the dealer shall take a well-focused, properly exposed color photograph of the seller, and shall attach the photograph to the corresponding form or card required by section 15.6.7. In addition to the required photographs, the dealer shall attach to the form or card a photocopy of any bill of sale, receipt or other document tending to show the seller's ownership of the items purchased by the dealer, if any such documents exist, and a photocopy of the seller's driver license or other identification authorized by this article.

-
- (c) All photographs required in this section shall be made with a self-developing camera and film system, or such other system as may be authorized in writing by the police department.

(Ord. No. 2017-08-05, § 3(15.6.8), 8-7-2017)

Sec. 15.6.9. Hours of operation.

Dealers may not keep open their places of business except between ~~7~~:10:00 a.m. and 9:00 p.m.

(Ord. No. 2017-08-05, § 3(15.6.9), 8-7-2017)

Sec. 15.6.10. Waiting period prior to disposing of articles.

Any dealer who in the course of business acquires precious metals or gems or goods made from precious metals or gems shall hold these items for at least seven calendar days before disposing of them by sale, transfer, shipment, grinding, melting, crushing or otherwise altering the appearance of the items. This section does not prevent any dealer from storing such items off the business premises, or from placing such items in the hands of any bank or security company for safekeeping, provided that no such item shall be removed from the city during the above-described holding period.

(Ord. No. 2017-08-05, § 3(15.6.10), 8-7-2017)

Sec. 15.6.11. Inspection of items held by dealer.

All items held by any dealer in accordance with the terms of section 15.6.10 shall be produced for inspection upon the demand of any authorized law enforcement officer or, if the items are stored off the premises, within one business day thereof, during normal business hours. If the provisions of this section are in conflict with the provisions of section 15.6.10, the provisions of this section shall control.

(Ord. No. 2017-08-05, § 3(15.6.11), 8-7-2017)

Secs. 15.6.12—15.6.25. Reserved.

DIVISION 2. PERMIT

Sec. 15.6.26. Required; prerequisite to issuance of business license.

- (a) No business license shall be issued to conduct the business of purchasing precious metals or gems until the annual permit required by this section has been issued by the police department.
- (b) No dealer shall engage in the business of purchasing precious metals or gems without having first obtained an annual permit issued by the police department and no dealer shall allow an employee to be involved in any way in the purchase of precious metals or gems until that employee has first obtained an annual employee permit from police department and no person shall work as an employee of a dealer until such person has first obtained an annual employee permit. No annual employee permit shall be issued unless the dealer with whom employment is authorized is a holder of a current dealer's permit.

(Ord. No. 2017-08-05, § 3(15.6.26), 8-7-2017)

Sec. 15.6.27. Application.

- (a) The application for the annual dealer's permit required by this division shall include such fingerprints, photographs and information as may be reasonably required by the police department, but shall in any case include the following:
 - (1) The name, age and business address of the person applying for the permit.
 - (2) The telephone number of the applicant.
 - (3) The name, age and business address of all other persons having an ownership interest or actually employed in the business other than publicly held corporations.
 - (4) The address of the premises upon which the business is conducted and the zoning and planning classification of the premises.
 - (5) The applicant shall be required to notify the police department within seven calendar days of any change of address of the applicant or business or any change of ownership in the business.
- (b) The applicant shall attach to this application a completed and signed employee or owner application as described in section 15.6.29 for each person named in the dealer's application. Each such application shall be signed by the owner, managing partner, corporate president or chief executive officer of the business, and there shall be a description of the capacity in which the signator is acting.

(Ord. No. 2017-08-05, § 3(15.6.27), 8-7-2017)

Sec. 15.6.28. Denial.

No permit required by the provisions of this division shall be issued under any of the following circumstances:

- (1) The applicant has no permanent place of business other than a van, mobile home, trailer or similar nonpermanent structure.
- (2) No owner, corporate officer, majority stockholder, partner or managing director of the business entity applying for the license has been a legal resident of the state for a minimum of 90 days preceding the date of application.
- (3) Any person required to be listed in the application for a dealer's permit has been convicted of or has entered a plea of guilty to a misdemeanor involving moral turpitude or any felony under the laws of this state or of the jurisdiction in which the verdict or plea was entered. This section does not apply to any person who has been convicted of or has entered a plea of guilty to a misdemeanor involving moral turpitude or any felony after ten years have expired from the date of the plea, conviction or completion of sentence, whichever is later.
- (4) The person is not eligible to register as a dealer in precious metals or gems by the terms of any law of this state requiring such registration.

(Ord. No. 2017-08-05, § 3(15.6.28), 8-7-2017)

Sec. 15.6.29. Employee or owner application.

- (a) Persons required to obtain an employee permit by this division shall complete an employee or owner application which shall state relevant information, including, but not limited to, the following:

-
- (1) Name.
 - (2) Date of birth.
 - (3) Driver license, state identification card or Social Security number.
 - (4) Race.
 - (5) Sex.
 - (6) Residential address and telephone number.
 - (7) Last previous residential address.
 - (8) Height and weight.
 - (9) Hair and eye color.
 - (10) Name, address and telephone number of the dealer.
 - (11) Either a statement that the applicant has never been convicted of, plead guilty to or been sentenced to probation for any offense other than a minor traffic violation, or a list of all such pleas, convictions and sentences of probation.
- (b) The application form shall also provide a place for the applicant's signature. Persons required to be listed in a dealer's application shall also complete an employee or owner application.

(Ord. No. 2017-08-05, § 3(15.6.29), 8-7-2017)

Sec. 15.6.30. Fingerprints.

All persons required to complete an employee or owner application shall also submit to fingerprinting by the agency or individual designated by the police department.

(Ord. No. 2017-08-05, § 3(15.6.30), 8-7-2017)

Sec. 15.6.31. Issuance; fee.

- (a) The police department shall provide the permit application forms required by this division, and shall review each completed application prior to issuing any permit. No employee or dealer permit shall be issued if it appears that the applicant or any person required to complete an employee or owner form has been convicted of, or has entered a plea of guilty to a misdemeanor involving moral turpitude, or any felony.
- (b) After ascertaining that all requisite forms have been completed, all fingerprint cards have been submitted, that no applicant or listed person is disqualified by virtue of a prior criminal record, and that all other requirements of this article have been complied with, the police department shall approve the application, subject to payment of an annual permit fee in the amount established by action of the City Council, a copy of which is on file in the office of the clerk of the city.

(Ord. No. 2017-08-05, § 3(15.6.31), 8-7-2017)

Sec. 15.6.32. Expiration and renewal.

Each permit required by this division shall indicate thereon an expiration date which is at least one year from the date of issue and must be posted in a conspicuous place on the premises. Any permit holder may reapply for a permit at any time following the 60th day preceding the date of expiration. It shall be unlawful for any dealer to

apply for a renewal unless all of the dealer's employees are holders of current, valid employee permits. No permits shall be renewed unless the dealer is the holder of a current, valid business license.

(Ord. No. 2017-08-05, § 3(15.6.32), 8-7-2017)

Sec. 15.6.33. Revocation and surrender of permits.

- (a) Any dealer or employee permit issued in accordance with provisions of this division shall be revoked by operation-of-law upon the occurrence of any of the following:
 - (1) The conviction of the dealer or employee for violating any state law or city ordinance pertaining to making false statements for the purpose of obtaining registration or authorization to become a dealer or employee of a dealer.
 - (2) The conviction of the dealer or employee for violation of a provision of this article after the dealer or employee has been previously convicted of a violation of this article within the preceding three years.
- (b) Upon revocation, the permit holder shall surrender the permit to the police department within one business day of the conviction resulting in revocation, and failure to do so shall constitute a separate violation for each day the permit is withheld.

(Ord. No. 2017-08-05, § 3(15.6.33), 8-7-2017)

Sec. 15.6.34. Appeals.

In any case in which it appears to the police department that an applicant is not entitled to the issuance of a dealer or employee permit under the provisions of this article, the police department shall so notify the applicant in writing by mailing the notice to the last address furnished to the City Manager or his designee by the applicant. If the police department refuses to issue a permit, or if a permit is surrendered pursuant to the provisions of this article, the applicant or permit holder shall be entitled to appeal to the certificate review hearing officer pursuant to the procedure set forth in article XVI of this chapter.

(Ord. No. 2017-08-05, § 3(15.6.34), 8-7-2017)

Secs. 15.6.35—15.6.50. Reserved.

DIVISION 3. TEMPORARY POWERS

Sec. 15.6.51. Powers vested in city manager.

- (a) Until such time as a police department is created in the City of Stonecrest the City Manager or his designee shall have the duty to administer, enforce, and register precious metal dealers under the provisions of this article.
- (b) This section shall be repealed upon the creation of the Stonecrest Police Department.

(Ord. No. 2017-08-05, § 3(15.6.51), 8-7-2017)

ARTICLE VII. PEDDLERS, DOOR-TO-DOOR SALES AND SIMILAR OCCUPATIONS

Sec. 15.7.1. Definition.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Canvassing and/or soliciting means and includes any one or more of the following activities:

- (a) Seeking to obtain orders for the purchase of goods, wares, merchandise, foodstuffs, services of any kind, character or description whatever, for any kind of consideration whatever;
- (b) Seeking to obtain prospective customers for application or purchase of insurance of any type, kind or publication;
- (c) Seeking to obtain donations or charitable contributions; or
- (d) Seeking to obtain subscriptions to books, magazines, periodicals, newspapers and every other type or kind of publication.

Residence means and includes every separate living unit occupied for residential purposes by one or more persons, contained within any type of building or structure.

(Ord. No. 2018-06-01, § 1(15.7.1), 6-18-2018)

Sec. 15.7.2. Permit required.

It shall be unlawful for any person to engage in business as a canvasser or solicitor, calling on the residences within the incorporated areas of the city for the purpose of soliciting orders, sales, subscriptions, or business of any kind, without first registering with the City Manager or his designee and paying the appropriate regulatory fee.

(Ord. No. 2018-06-01, § 1(15.7.2), 6-18-2018)

Sec. 15.7.3. Application.

- (a) Each registrant shall furnish, on a form developed by the City Manager or his designee, at least his name and permanent address, his signature, the name and address of his employer, the nature of products sold or displayed, and the proposed method of operation within the city. Each registrant shall be fingerprinted and photographed by the City Manager or his designee.

- (b) The questionnaire form shall also bear the following statement:

"Georgia Code section 16-10-71 provides that a person who makes a lawful oath or affirmation or who executes a document knowing that it purports to be an acknowledgment of a lawful oath or affirmation commits the offense of false swearing when, in any matter or thing other than a judicial proceeding, he knowingly and willfully makes a false statement."

(Ord. No. 2018-06-01, § 1(15.7.3), 6-18-2018)

Sec. 15.7.4. Regulatory fee.

The City Manager or his designee shall collect a fee of \$100.00 for each registration. Upon approval, a registration card will be issued showing the name of the firm or corporation and the name of the representative. Such registration shall be valid for 90 days from the date of issuance. The registration may be renewed during the same calendar year for an additional 90-day period without another investigation or additional fees.

(Ord. No. 2018-06-01, § 1(15.7.4), 6-18-2018)

Sec. 15.7.5. Identity cards.

Each registrant shall be issued an identity card bearing his name and photograph, the company name, and the expiration date of the registration. Each solicitor must carry such identity card at all times while soliciting or canvassing within the city and shall display such card to each customer and upon appearance at each residence and/or business establishment canvassed or solicited.

(Ord. No. 2018-06-01, § 1(15.7.5), 6-18-2018)

Sec. 15.7.6. Hours of operation.

- (a) Soliciting or canvassing on the public streets, areas, or parks of the city shall be conducted only between the hours of ~~9~~:10:00 a.m. and ~~7~~:5:00 p.m.
- (b) Soliciting or canvassing or calling from house to house within the incorporated areas of the city shall be conducted only between the hours of ~~9~~:10:00 a.m. and ~~6~~:5:00 p.m.

(Ord. No. 2018-06-01, § 1(15.7.6), 6-18-2018)

Sec. 15.7.7. Restriction on number of persons soliciting.

The number of solicitors or canvassers in the city for any single firm, corporation, or organization shall not exceed five in number at any one time.

(Ord. No. 2018-06-01, § 1(15.7.7), 6-18-2018)

Sec. 15.7.8. Identification to prospective customers.

Prior to any solicitation of funds within the city, each canvasser or solicitor shall identify the organization which he represents. Additionally, each canvasser or solicitor must inform each person solicited of any minimum payment, deposit, or donation required for the acceptance of any merchandise, wares, goods, or any similar items provided by each canvasser or solicitor prior to such acceptance by each person solicited.

(Ord. No. 2018-06-01, § 1(15.7.8), 6-18-2018)

Sec. 15.7.9. Fraud, etc.

It shall be unlawful for a canvasser or solicitor to perform any of the following acts:

- (a) Falsely represent, either directly or by implication, that funds being solicited are on behalf of any person other than the person registered with the City Manager or his designee;
- (b) Without the express prior permission of an occupant or property owner, to solicit at any residence, apartment complex, or shopping center, other than areas open to public parking, where a sign has been posted prohibiting such solicitation;
- (c) To remain on private premises after being asked to leave the premises or to continue solicitation after being refused upon the public streets, areas, or parks; such action shall constitute harassment; or

-
- (d) To solicit or canvass on any private premises upon which is displayed a sign, plaque or other posting declaring "No Soliciting" or other similar prohibition.

(Ord. No. 2018-06-01, § 1(15.7.9), 6-18-2018)

Sec. 15.7.10. Exceptions.

- (a) Any person desiring to solicit or canvass upon the public streets, areas, or parks, or call from house to house within the incorporated areas of the city for the purpose of raising funds or seeking donations for any religious, charitable, or eleemosynary organization shall register with and obtain a license from the city.
- (b) Such person on a form developed by the City Manager or his designee, at least:
 - (1) Applicant's name and permanent address;
 - (2) Name, address, and telephone number of the firm, corporation, or organization represented;
 - (3) Names and addresses of all persons canvassing or soliciting within the city;
 - (4) The nature of any merchandise or goods to be sold or offered for sale in conjunction with such solicitation; and
 - (5) Proof of tax-exempt status shall be required when registering with City Manager or his designee.
 - i. The City Manager or his designee shall collect a fee of \$1.00 from each organization to cover costs of processing the license.
 - ii. Each organization shall be issued an identity card bearing the name of each individual who shall engage in solicitation or canvassing on behalf of the organization, the organization's name, and the expiration date of the license. Each applicant does not have to be fingerprinted or photographed.
 - iii. The license shall be valid for 90 days from the date of issuance.

(Ord. No. 2018-06-01, § 1(15.7.10), 6-18-2018)

Sec. 15.7.11. License revocation.

Any license issued under this article may be suspended and/or revoked by the City Manager or his designee due to any violation of any ordinance or resolution of the city, county, or of any state or federal law, or whenever the license holder shall cease to possess the qualifications and character required in this article for the original application.

(Ord. No. 2018-06-01, § 1(15.7.11), 6-18-2018)

Sec. 15.7.12. Activity not regulated hereby.

This section is not intended to, nor shall it operate to, regulate door-to-door visitation for the following purposes: political canvassing or religious canvassing, provided that such canvassing does not include the soliciting of orders, sales, subscriptions or business of any kind.

(Ord. No. 2018-06-01, § 1(15.7.12), 6-18-2018)

Sec. 15.7.13. Penalty.

- (a) Any person violating any of the provisions of this article shall, upon conviction or entering a plea of guilty or nolo contendere in the Stonecrest Municipal Court, shall be punished pursuant to chapter 16 of this Code.
- (b) Continued violation of the provisions of this article may be enjoined by instituting appropriate proceedings for injunction in a court of competent jurisdiction of this state. Such actions may be maintained notwithstanding that other adequate remedies at law may exist. Remedies contained in this article are meant to be cumulative in nature.

(Ord. No. 2018-06-01, § 1(15.7.13), 6-18-2018)

ARTICLE VIII. MASSAGE THERAPY LICENSING

Sec. 15.8.1. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Director means the director of finance or his designee.

Massage or *massages* or *massage therapy* means the manipulation and/or treatment of soft tissues of the body, including, but not limited to, the use of effleurage, petrissage, pressure, friction, tapotement, kneading, vibration, range of motion stretches, and any other soft tissue manipulation whether manual or by use of massage apparatus, and may include the use of oils, lotions, creams, salt glows, hydrotherapy, heliotherapy, hot packs, and cold packs. The term "massage" or "massage therapy" shall not include diagnosis, the prescribing of drugs or medicines, spinal or other joint manipulations, or any service or procedure for which a license to practice chiropractic, physical therapy, podiatry, or medicine is required by the state.

Massage apparatus means any manual, mechanical, hydraulic, hydrokinetic, electric, or electronic device or instrument or any device or instrument operated by manual, mechanical, hydraulic, hydrokinetic or electric power, which is utilized by a massage therapist for the purpose of administering a massage.

Massage establishment means any business established for profit which employs or contracts with one or more massage therapists, or operates or maintains for profit one or more massage apparatus, and which, for good or valuable consideration, offers to the public facilities and personnel for the administration of massages. The term "massage establishment" shall not include hospitals or other professional health care establishments separately licensed as such by the state.

Massage therapist means any person whom for good or valuable consideration administers a massage.

(Ord. No. 2017-08-05, § 5(15.8.1), 8-7-2017)

Sec. 15.8.2. Licenses required.

- (a) *Massage therapist license.* It shall be unlawful for any natural person to administer massages without having obtained a license in accordance with the requirements of this article.
- (b) *Massage establishment license.* It shall be unlawful for any person, natural or corporate, to operate a massage establishment without having obtained a license therefor; or for any person, natural or corporate, to allow a massage therapist to administer massages without having obtained a license in accordance with the requirements of this article.

(Ord. No. 2017-08-05, § 5(15.8.2), 8-7-2017)

Sec. 15.8.3. Scope of regulations.

- (a) All licenses issued under this article shall constitute a mere privilege to conduct the business so authorized during the term of the license or permit only and subject to all terms and conditions imposed by the city and state law.
- (b) Nothing in this article shall be construed to regulate, prevent, or restrict in any manner:
 - (i) Any physician, chiropractor, physical therapist, or similar professional licensed and regulated by or through the state while engaged in the practice of said profession;
 - (ii) Any hospital or other professional health care establishment separately licensed as such by the state; or
 - (iii) Any other individual or entity expressly exempted from local legislation by the laws of the state.
- (c) Except as specified in subsection (b) of this section, the requirements of this article shall be in addition to all other licensing, taxing, and regulatory provisions of local, state or federal law, and shall not authorize violations of said other applicable laws.

(Ord. No. 2017-08-05, § 5(15.8.3), 8-7-2017)

Sec. 15.8.4. Application process.

- (a) *Application Requirements.* Any person desiring to obtain a massage establishment license or massage therapist license shall make application to the City Manager or his designee. All applications shall be sworn to by the applicant as true, correct and complete before a notary public or other officer authorized to administer oaths. All applications shall be in writing and shall set forth the following information:
 - (1) The full legal name of the applicant, including all aliases, nicknames, pseudonyms or trade names currently or heretofore used by the applicant;
 - (2) The current and all previous business and residence addresses of the applicant within the three years immediately preceding the date of application;
 - (3) Sworn affidavits of at least three bona fide residents of the city that the applicant is personally known to them and they believe the person to be of good moral character;
 - (4) Written proof that the applicant is over the age of 18 years;
 - (5) The applicant's height, weight and color of eyes and hair;
 - (6) Two current photographs of the applicant at least two inches by two inches in size;
 - (7) The business, occupation or employment of the applicant for three years immediately preceding the date of application;
 - (8) Any massage or similar business license history of the applicant, including whether such person, in any previous operation in any jurisdiction, has had such a license revoked or suspended, the reason therefor, and any business activity or occupation subsequent to the action of suspension or revocation;
 - (9) All convictions, pleas of guilty, or pleas of nolo contendere for violations of any law and the grounds therefor;

-
- (10) The applicant shall be fingerprinted by the City Manager or his designee and such fingerprint card and record shall be attached as an exhibit to the application. Payment of all fees charged by the City Manager or his designee in connection with this requirement shall be the responsibility of the applicant;
 - (11) Applicants for a massage therapist license shall provide a certificate dated within 30 days of application from a physician licensed in the state, certifying that the applicant is in sound mental and physical health, and free of all contagious or communicable diseases;
 - (12) Applicants for a massage therapist license must furnish a certified copy of a diploma or certificate of graduation (demonstrating compliance with section 15.8.5(a)(2)), along with a certified statement from the National Certification Board of Therapeutic Massage and Body Work evidencing passage by the applicant thereof of the exam for massage therapists administered by said Board. Applicants for a massage establishment license must furnish an affidavit demonstrating compliance with section 15.8.5(b)(2) and 15.8.5(b)(3);
 - (13) If the applicant is a corporation or partnership, such corporation or partnership shall submit the foregoing information and exhibits with regard to each employee, independent contractor agent and partner, general or limited, associated with the operation of the licensed establishment;
 - (14) If the applicant is a corporation, such corporation shall, in addition to the foregoing information, submit a complete list of the stockholders of said corporation, including names, current addresses and current occupations, and provide the name and address for its registered agent in the county;
 - (15) If the applicant is an individual, the applicant must reside in the state and must submit written, reliable proof thereof. Additionally, if the applicant does not reside in the county, the applicant must provide the name and address for an agent who resides in the county authorized to receive legal process and notices under this article on behalf of the applicant.
- (b) *Fees.* All license applications shall be accompanied by a fee as elsewhere established by the City Council to defray the costs associated with issuance of said licenses. All fees associated with the background check required by subsection (a)(10) of this section shall be the responsibility of the applicant and shall be in addition to the application fee.

(Ord. No. 2017-08-05, § 5(15.8.4), 8-7-2017)

Sec. 15.8.5. Minimum standards.

- (a) *Massage therapist.* No applicant shall be issued a license as a massage therapist unless both of the following standards are first met:
- (1) The applicant must be of good moral character. No applicant shall be found to have met this requirement if said applicant has been convicted, pled guilty, or entered a plea of nolo contendere to any felony, or to any misdemeanor involving moral turpitude, within a period of five years prior to the filing of the application; and
 - (2) The applicant must be the holder of a diploma or certificate earned by the applicant from a state certified school, representative of the fact that the applicant attended a course of massage therapy education and study of not less than 500 classroom hours consisting of a curriculum of anatomy and physiology, basic massage theory, technique and clinical practice, approach to massage, allied modalities and disease awareness, and other such subjects and have passed the National Certification Board of Therapeutic Massage and Body Work exam for massage therapists.
- (b) *Massage establishment.* No applicant shall be issued a license for a massage establishment unless all of the following standards are first met:

-
- (1) The applicant, including the partner applying on behalf of a partnership and an agent applying on behalf of a corporation, must be of good moral character. No applicant shall be found to have met this requirement if said applicant has been convicted, pled guilty, or entered a plea of nolo contendere to any felony, or to any misdemeanor involving moral turpitude, within a period of four years prior to the filing of the application;
 - (2) A corporate applicant must be chartered under the laws of Georgia or authorized by the Secretary of State to do business in the state. The applicant shall be the owner or legal agent of the establishment. The corporate applicant must identify an agent for service of process in the county;
 - (3) The owner/applicant, or corporate agent must be a resident of the state;
 - (4) A readable sign shall be posted at the main entrance identifying the establishment as a massage establishment, provided also that all such signs shall comply with the sign requirements of the Code of Ordinances;
 - (5) Minimum lighting shall be provided in accordance with the Uniform Building Code, and, additionally, at least one artificial light of not less than 40 watts shall be provided in each enclosed room or booth;
 - (6) Ordinary beds or mattresses shall not be permitted in any licensed massage establishment;
 - (7) Minimum ventilation shall be provided in accordance with the Standard Mechanical Code and the Georgia Energy Code; and
 - (8) The establishment, prior to the issuance of any license hereunder, must be in compliance with all applicable building and life safety codes, and the building to be occupied must have a valid, current certificate of occupancy.

(Ord. No. 2017-08-05, § 5(15.8.5), 8-7-2017)

Sec. 15.8.6. Issuance of license.

- (a) *Review of applications.* If a license application is submitted in proper form, including all information and exhibits required herein and accompanied by the correct fees, the application shall be accepted and a review of the application and an inspection and investigation shall be conducted by the director. The director shall transmit a copy of the completed application to the City Manager or his designee. Upon the payment by the applicant of the required fees, the City Manager, or its designee, shall cause to be conducted a background investigation of the police record of the applicant, and shall transmit a summary of the investigation results to the director.
- (b) *Action on applications.* Upon receipt of this background investigation, and completion of review of the application in accordance with the terms of this article, the director shall act on the application. The director shall deny any application that:
 - (1) Fails to meet each of the application requirements specified herein;
 - (2) Fails to meet each of the minimum standards specified in section 15.8.5; or
 - (3) Contains false information in the application or attached documents.

Otherwise, the director shall approve the application and the license shall be issued upon the payment of any applicable city business or occupation tax. All licenses issued pursuant to this article shall be valid for a period of one year. If an application for a license is denied under this article, the applicant shall not be authorized to reapply for said denied license for a period of one year from the date of denial.

- (c) *Appeals of denials of applications.* In the event the director denies a license or apprentice permit application, such denial shall be in written form, addressed to the applicant at the application address, and shall state the

grounds upon which the denial is based. Within 15 days of the date of issuance of such notice, the applicant shall be entitled to appeal to the certificate review hearing officer pursuant to the procedure set forth in article XVI of this chapter.

(Ord. No. 2017-08-05, § 5(15.8.6), 8-7-2017)

Sec. 15.8.7. Transfers and sales prohibited.

All licenses issued pursuant to this article are nontransferable.

(Ord. No. 2017-08-05, § 5(15.8.7), 8-7-2017)

Sec. 15.8.8. Change of location.

A change of location of massage establishment premises may be approved by the City Manager or his designee provided all general ordinances are complied with and a change of location fee as elsewhere established by the City Council is first paid.

(Ord. No. 2017-08-05, § 5(15.8.8), 8-7-2017)

Sec. 15.8.9. Renewals.

All valid licenses may be renewed for additional one-year periods, provided a renewal application meeting all of the requirements for an initial license application is submitted prior to expiration of the existing license and approved by the director according to the same standards for initial licenses. The fee for the annual renewal shall be as elsewhere established by the City Council.

(Ord. No. 2017-08-05, § 5(15.8.9), 8-7-2017)

Sec. 15.8.10. Further requirements.

The following additional requirements shall apply to all license holders and establishments:

- (a) All massage therapists and all other persons on the premises, with the exception of the customers, shall be completely clothed at all times when administering a massage. For the purposes of this provision, "completely clothed" shall mean having on the upper portion of the body appropriate undergarments and either blouse or shirt which shall cover all the upper body save the arms and neck and shall mean having on the lower body appropriate undergarments plus either pants or skirt, and said pants or skirt must cover from the waist down to a point at least two inches above the knee. All clothes worn in compliance with this subsection shall be entirely non-transparent.
- (b) Massage of the human genitals or anus within massage establishments is expressly prohibited.
- (c) The storing, serving, sale or consumption of alcoholic beverages within massage establishments is expressly prohibited.
- (d) Every person to whom a license shall have been granted shall display said license in a conspicuous place on the premises that is clearly visible to the visiting public.
- (e) The City Manager or his designee, shall have the right to inspect any licensed massage premises and its records at any time, with or without notice, during business hours to ensure compliance with this article.

-
- (f) It shall be unlawful for any person under the age of 18 years to patronize any massage establishment unless at the time of such patronage such person carries with him a written order directing the treatment to be given by a regularly licensed physician, or unless such person provides a written consent to massage therapy treatment signed by the underage patron's parent or guardian. It shall be the duty of the operator of such massage establishment to determine the age of each person patronizing such massage establishment and a violation of this section shall be grounds for revocation of the license of such massage establishment and/or massage therapist administering massage to an underage patron.
 - (g) It shall be the duty of all persons holding a license for a massage establishment under this article to file with the City Manager or his designee the names of all employees and independent contractors other than those holding massage therapist licenses, their home addresses, home telephone numbers and places of employment. Changes in the list of said employees and independent contractors with the names of new employees and independent contractors must be filed with said city department within ten days from the date of any such change.
 - (h) It shall be the duty of any person granted a license under this article to maintain correct and accurate records of the names and addresses of the persons receiving treatment at such establishment; and the name of the person at the establishment administering the treatment. The records shall be subject to inspection at any time by the city through the City Manager or his designee.
 - (i) It shall be the duty of the licensee establishment to actively supervise and monitor the conduct of any and all employees, independent contractors, customers and all other persons on the premises in order to ensure compliance with the provisions of this chapter.

(Ord. No. 2017-08-05, § 5(15.8.10), 8-7-2017)

Sec. 15.8.11. Revocation of license.

- (a) No license issued hereunder shall be revoked except for due cause as herein defined without the opportunity for a hearing as hereinafter set forth before the certificate review hearing officer. Notice of such hearing shall be given in writing and served at least ten days prior to the date of the hearing thereon. In the event the license holder cannot be found, and the service of notice cannot be otherwise made in the manner herein provided, a copy of such notice shall be mailed registered postage fully prepaid, addressed to the license holder or the registered agent thereof at his, her, or its place of business or residence at least ten days prior to the date of such hearing. The notice shall state the grounds for revocation of such license and shall designate the time and place where such hearing will be held.
- (b) Due cause for revocation of such license shall be as provided in section 15.8.12 of this article.
- (c) In all hearings pursuant to this section, the following procedures shall prevail, and the proceeding shall be as informal as compatible with justice:
 - (1) The charges and specifications against the licensee shall be read along with any response filed by the licensee.
 - (2) The certificate review hearing officer shall hear the evidence upon the charges and specifications as filed against the licensee and shall not consider any additional evidence beyond the scope of the charges, and may exclude evidence which is purely cumulative.
 - (3) The order of proof shall be as follows: The city representative shall present his evidence in support of the charges; the licensee shall then present his evidence. Evidence of each party may be supported by submission of pertinent documents. Each party shall be allowed to present pertinent rebuttal evidence.

-
- (4) The licensee and city may be represented by counsel, and may present, examine and cross-examine witnesses. Additionally, the certificate review hearing officer may interrogate all parties and witnesses to obtain necessary information. Following the presentation of evidence, the hearing officer may have a reasonable time within which to issue its decision.
 - (5) The findings of the certificate review hearing officer will be final unless within 30 days of the date of the decision, the applicant files a petition for writ of certiorari to the superior court of the county.

(Ord. No. 2017-08-05, § 5(15.8.11), 8-7-2017)

Sec. 15.8.12. Grounds for revocation.

- (a) The license of a massage therapist may be revoked upon one or more of the following grounds:
 - (1) Failure of the holder to maintain initial requirements for obtaining the license;
 - (2) The holder is guilty of fraud in the practice of massage, or fraud or deceit in his being licensed in the practice of massage;
 - (3) The holder is engaged in the practice of massage under a false or assumed name, or is impersonating another therapist of a like or different name;
 - (4) The holder is addicted to the habitual use of intoxicating liquors, narcotics or stimulants to such an extent as to incapacitate such person to the extent that he is unable to perform his professional duties;
 - (5) The holder is guilty of fraudulent, false, misleading or deceptive advertising or practices any other licensed profession without legal authority therefor;
 - (6) The holder has violated any of the provisions of this chapter;
 - (7) The holder has violated any laws relating to sodomy, aggravated sodomy, solicitation of sodomy, public indecency, prostitution, pimping, pandering, pandering by compulsion, masturbation for hire, distribution of obscene materials, distribution of material depicting nudity, or sexual conduct, as defined under Georgia law; or has been convicted, pled guilty, or entered a plea of nolo contendere to any felony, or to any misdemeanor involving moral turpitude;
 - (8) The original application, or renewal thereof, contains materially false information; or the applicant has deliberately sought to falsify information contained therein; or
 - (9) There has been the occurrence of a fact which would have barred the issuance of the original license.
- (b) The license of a massage establishment may be revoked upon one or more of the following grounds:
 - (1) Failure of the holder to maintain initial requirements for obtaining the license;
 - (2) The holder allows or permits any person who is not a licensed massage therapist to administer a massage in said establishment;
 - (3) The premises in which the massage establishment is located are in violation of any federal, state, city, or county laws designated for the health, protection and safety of the occupants or general public;
 - (4) The premises are in violation of the city's building or life safety codes;
 - (5) The original application or renewal thereof, contains materially false information; or the applicant has deliberately sought to falsify information contained therein;
 - (6) The holder of the license, including any person with an ownership interest in the license, has been convicted, pled guilty, or entered a plea of nolo contendere to any felony, or to any misdemeanor involving moral turpitude, or has violated any laws relating to sodomy, aggravated sodomy, solicitation

of sodomy, public indecency, prostitution, pimping, pandering, pandering by compulsion, masturbation for hire, distribution of obscene materials, distribution of material depicting nudity, or sexual conduct, as defined under state law;

- (7) Any of the license holder's employees, independent contractors or agents has been convicted, pled guilty, or entered a plea of nolo contendere to any felony, or to any misdemeanor involving moral turpitude, or has violated any laws relating to sodomy, aggravated sodomy, solicitation of sodomy, public indecency, prostitution, pimping, pandering, pandering by compulsion, masturbation for hire, distribution of obscene materials, distribution of material depicting nudity, or sexual conduct, as defined under state law, in connection with the operation of the massage establishment or on or about the premises of the massage establishment;
 - (8) Failure of the holder to actively supervise and monitor the conduct of the employees, independent contractors, agents, customers, or others on the premises in order to protect the health, safety and welfare of the general public and the customers; or
 - (9) The holder, his employees, agents, or independent contractors associated with the establishment have allowed to occur or have engaged in a violation of any part of this chapter.
- (c) Any massage therapist or massage establishment who has his or its license or permit revoked shall be disqualified from reapplying for such a license or permit for a period of 12 months immediately following the date of revocation.

(Ord. No. 2017-08-05, § 5(15.8.12), 8-7-2017)

Sec. 15.8.13. Violations; penalties.

- (a) Any person, firm, corporation or other entity violating the provisions of this article shall be punishable by a fine not to exceed \$1,000.00 per violation or by imprisonment for a period not to exceed 60 days, or by both such fine and imprisonment. Violation of this article shall also be grounds for immediate suspension or revocation of the license issued hereunder.
- (b) The violation of the provisions of this article may be abated as a nuisance.
- (c) The violation of all provisions of this article by any person may be enjoined by instituting appropriate proceedings for injunction in any court of competent jurisdiction. Such actions may be maintained notwithstanding that other adequate remedies at law exist. Such actions may be instituted in the name of the City Council.

(Ord. No. 2017-08-05, § 5(15.8.12), 8-7-2017)

Sec. 15.8.14. Unlawful operation declared nuisance.

- (a) Any massage establishment operated, conducted or maintained contrary to the provisions of this article shall be and the same is declared to be unlawful and a public nuisance. The city may, in addition, or in lieu of all other remedies, commence an action or actions, proceeding or proceedings for abatement, removal or enjoinder thereof, in the manner provided by law.
- (b) No massage establishment shall operate at any location nor on any premises which does not comply with all zoning, building, and fire safety codes, and other ordinances and laws of the city and the state.

(Ord. No. 2017-08-05, § 5(15.8.13), 8-7-2017)

ARTICLE IX. ESCORT OR DATING SERVICES

Sec. 15.9.1. License.

- (a) Any person desiring to engage in the business of providing or arranging dates, escorts or partners for persons shall, before engaging in such business, file an application for a business license on a form supplied by the City Manager or his designee and shall comply with all the provisions of this article.
- (b) The applicant for a dating or escort service license must be an owner, partner or majority stockholder.
- (c) Each applicant shall submit the following information, as a minimum:
 - (1) Trade name and business address.
 - (2) Applicant's name and residence address.
 - (3) Names and residence addresses of all interested persons, to include owners, partners, stockholders, officers and directors.
 - (4) Manager's name and residence address.
 - (5) Employees' names and residence addresses.

(Ord. No. 2017-08-05, § 5(15.9.1), 8-7-2017)

Sec. 15.9.2. Qualifications of license applicant, others connected with business.

No applicant, owner, partner, stockholder, officer, director or any other interested person connected with the business for which a license is applied under this article shall have been convicted of a crime involving moral turpitude, lottery or illegal sale or possession of narcotics within the preceding ten-year period; any subsequent convictions of the nature described in this section automatically acts to void any such license and permits held.

(Ord. No. 2017-08-05, § 5(15.9.2), 8-7-2017)

Sec. 15.9.3. Permit required.

All applicants for an escort or dating service business license, along with their employees, must also file for a permit with the City Manager or his designee accompanied by a permit fee in the amount established by action of the City Council, a copy of which is on file in the office of the city clerk and providing the information in section 15.9.1 as well as any additional information and fingerprinting as deemed necessary by the City Manager or his designee for the purposes of conducting a background investigation of the applicant.

(Ord. No. 2017-08-05, § 5(15.9.3), 8-7-2017)

Sec. 15.9.4. Employees.

No person under 18 years of age shall be employed by an escort or dating service in any capacity and not before such person has been fingerprinted by the City Manager or his designee. When determined that the employee applicant has not been convicted of a crime involving moral turpitude for the preceding three-year period, an annual personal identification card authorizing such person to be employed by the escort or dating service will be issued. It shall be the responsibility of the business license applicant to ensure that the provisions of this section are complied with and that no employee possesses an expired identification card or permit while in the business' employ.

(Ord. No. 2017-08-05, § 5(15.9.4), 8-7-2017)

Secs. 15.9.5—15.9.25. Reserved.

ARTICLE X. POOLROOMS

DIVISION 1. GENERALLY

Sec. 15.10.1. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Pool or billiards includes any game played on a table surrounded by an elastic ledge of cushions with balls which are impelled by a cue.

Poolroom means any public place where a person is permitted to play the game of pool or billiards.

(Ord. No. 2017-08-05, § 5(15.10.1), 8-7-2017)

Sec. 15.10.2. Applicability.

O.C.G.A. § 43-8-1 et seq. does not apply within the city. The provisions of this article govern the operation of poolrooms within the city.

(Ord. No. 2017-08-05, § 5(15.10.2), 8-7-2017)

Sec. 15.10.3. Inspection of licensed establishments.

The City Manager or his designee may inspect establishments licensed under this article during the hours in which the premises are open for business. Such inspection shall be made for the purpose of verifying compliance with the requirements of this article.

(Ord. No. 2017-08-05, § 5(15.10.3), 8-7-2017)

Sec. 15.10.4. Gambling.

No gambling or other games of chance shall be permitted in a poolroom.

(Ord. No. 2017-08-05, § 5(15.10.4), 8-7-2017)

Sec. 15.10.5. Manager.

All poolrooms which have three or more pool tables shall have a manager, or designated employee, on-duty during operating hours, whose responsibility is the operation of the pool tables.

(Ord. No. 2017-08-05, § 5(15.10.5), 8-7-2017)

Secs. 15.10.6—15.10.20. Reserved.

DIVISION 2. LICENSE

Sec. 15.10.21. Required.

No person shall operate a poolroom without a business license issued by the City Manager or his designee.
(Ord. No. 2017-08-05, § 5(15.10.21), 8-7-2017)

Sec. 15.10.22. Application.

- (a) All persons desiring to operate a poolroom shall make application for a business license on a form prescribed by the City Manager or his designee.
- (b) The application shall include, but shall not be limited to, the following:
 - (1) The name and address of the owner-applicant.
 - (2) The address of the licensed establishment.
 - (3) The number of pool tables to be operated at the licensed establishment.
 - (4) If the owner-applicant is a partnership, the names and residence addresses of the partners.
 - (5) If the owner-applicant is a corporation, the names of the officers.
 - (6) The name and address of the agent for service of process.
 - (7) The name of the manager.
 - (8) The name of all shareholders holding more than ten percent of any class of corporate stock, or other entity having a financial interest in each entity which is to own or operate the licensed establishment.

If the manager changes, the owner-applicant must furnish the City Manager or his designee with the name and address of the new manager and other information as requested within ten days of such change.

- (c) All applicants shall furnish data, information and records as required by the City Manager or his designee to ensure compliance with the provisions of this article. Failure to furnish data shall automatically serve to dismiss the application with prejudice.
- (d) All applications shall be sworn to by the applicant before a notary public or other officer authorized to administer oaths.
- (e) In all instances in which an application is denied under the provisions of this division, the applicant may not reapply for a license for at least one year from the final date of denial.

(Ord. No. 2017-08-05, § 5(15.10.22), 8-7-2017)

Sec. 15.10.23. Persons eligible.

- (a) No poolroom license shall be granted to any illegal alien.

-
- (b) Where the owner-applicant is a partnership or corporation, the provisions of this section shall apply to all its partners, officers, managers and majority stockholders. In the case of a corporation, the license shall be issued jointly to the corporation and to the majority stockholder, if an individual. Where the majority stockholder is not an individual, the license shall be issued jointly to the corporation and its agent registered under the provisions of this section. In the case of a partnership, the license will be issued to one of the partners.
 - (c) No license shall be granted to any person who has been convicted under any federal, state or local law of any misdemeanor involving moral turpitude within ten years prior to the filing of the application for such license.
 - (d) No license shall be granted to any person convicted under any federal, state or local law of any felony within ten years prior to the filing of the application for such license.
 - (e) No license shall be granted to any person who has had any license issued under the police powers of the city or DeKalb County previously revoked or rejected within two years prior to the filing of the application. The City Manager or his designee may decline to issue a license when any person having an interest in the operation of such place of business or control over such place of business does not meet the same character requirements as set forth for the licensee.
 - (f) All licensed establishments must have and continuously maintain in the county a registered agent upon whom any process, notice or demand required or permitted by law or under this article to be served upon the licensee or owner may be served. The licensee shall file the name of such agent, along with the written consent of such agent with the City Manager or his designee in such form as is prescribed.

(Ord. No. 2017-08-05, § 5(15.10.23), 8-7-2017)

Sec. 15.10.24. Expiration; renewal; transfer.

- (a) All licenses granted under this division shall expire on December 31 of each year.
- (b) Licensees who desire to renew their licenses shall file application with all applicable fees with the City Manager or his designee on the form provided for renewal of the license for the following year. Applications for renewal must be filed before November 30 of each year or the applicant shall pay a late payment penalty in addition to an assessment of interest as specified by chapter 2 of this Code. No renewal licenses shall be granted after January 1, but such application shall be treated as an initial application and the applicant shall be required to comply with all requirements for the granting of licenses as if no previous license had been held.
- (c) All licenses granted hereunder shall be for the full calendar year. License fees shall not be prorated and are nonrefundable.
- (d) No license shall be transferred without prior approval of the City Manager or his designee.

(Ord. No. 2017-08-05, § 5(15.10.24), 8-7-2017)

Sec. 15.10.25. Fee.

No poolroom license shall be issued until a fee in the amount established by action of the City Council, a copy of which is on file in the office of the clerk, is paid to the city.

(Ord. No. 2017-08-05, § 5(15.10.25), 8-7-2017)

Sec. 15.10.26. Issuance.

Before a poolroom license is granted, the applicant therefor shall comply with all rules and regulations adopted by the City Council regulating the operation of poolrooms.

(Ord. No. 2017-08-05, § 5(15.10.26), 8-7-2017)

Sec. 15.10.27. Suspension or revocation.

A poolroom license may be suspended or revoked by the City Manager or his designee for failure of a licensee to comply with the provisions of this article or where the licensee furnishes fraudulent or false information in the license application.

(Ord. No. 2017-08-05, § 5(15.10.27), 8-7-2017)

Sec. 15.10.28. Appeals.

- (a) No poolroom license shall be denied, suspended or revoked without the opportunity for a hearing.
- (b) The City Manager or his designee shall provide written notice to the owner-applicant and licensee of the order to deny, suspend or revoke the license. Such written notification shall set forth in reasonable detail the reasons for such action and shall notify the owner-applicant and licensee of the right to appeal under the provisions of this chapter. Any owner-applicant or licensee who is aggrieved or adversely affected by a final action of the city may have a review thereof in accordance with the appeals procedures specified in article XVI of this chapter.

(Ord. No. 2017-08-05, § 5(15.10.28), 8-7-2017)

Secs. 15.10.29—15.10.50. Reserved.

ARTICLE XI. VEHICLES FOR HIRE

Sec. 15-11-1. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Open stand means locations on the streets of the city that may be used by any taxicab on a nonexclusive, first-come-first-served basis, and not by private vehicles or other public conveyances.

Taxicab means a motor vehicle used to transport passengers for a fee or fare and which is fitted with a taximeter or other device that is used to compute such fee or fare. Taxicabs shall not include limousine carriers or ride share drivers, as defined in O.C.G.A. § 40-1-90(1) and (3).

Taxicab company means an entity or person operating a taxicab or providing taxi services, as defined in O.C.G.A. § 40-1-90(5).

Taximeter means an instrument or device attached to a motor vehicle and designed to measure the distance traveled by such vehicle, or an instrument or device attached to a motor vehicle and designed to compute and indicate the fare or fee to be charged to the passenger.

(Ord. No. 2018-06-01, § 1(15.11.00), 6-18-2018)

Sec. 15-11-2. Doing business defined.

Any taxicab company operating a taxicab within the incorporated boundaries of the city or with an established business relationship with independent contractors operating a taxicab shall be deemed doing business in the city under this article if such person is picking up passengers in the city and accepting or soliciting any consideration, charge or fee which is determined by agreement, by mileage, by the length of time the vehicle is used or by contract for the use of any motor vehicle or other vehicle designed or used for the purpose of transporting passengers.

(Ord. No. 2018-06-01, § 1(15.11.00), 6-18-2018)

Sec. 15-11.3. Cruising and use of vehicle stands.

Cruising is defined as moving about the streets of the city for the purpose of picking up and transporting passengers who have not previously requested such service by telephone or by personal command. Taxicab companies shall ensure that their drivers use open stands on a nonexclusive, first-come-first-served basis.

(Ord. No. 2018-06-01, § 1(15.11.00), 6-18-2018)

Sec. 15-11-4. Call jumping.

Taxicab companies under this article shall not participate in nor allow their drivers to practice call jumping or the act of intercepting a passenger who has requested service from another company.

(Ord. No. 2018-06-01, § 1(15.11.00), 6-18-2018)

Sec. 15-11-5. Schedule of fares.

- (a) All taxicab companies doing business in the incorporated boundaries of the city shall charge a schedule of fares as provided in the city fee schedule.
- (b) All taxicab companies permitted under this article shall have the right to charge a charge as provided in the city fee schedule if the meter is not utilized.
- (c) Taximeters shall be calibrated by the permitted taxicab company to calculate the fares in accordance with the schedule set forth in this section. The taxi shall have, installed, lead and wire seals to the taximeter once it is calibrated so that no adjustments, alterations or replacements may be made to the taximeter that affects in any way its accuracy or indications.

(Ord. No. 2018-06-01, § 1(15.11.00), 6-18-2018)

Sec. 15-11-6. Temporary fuel surcharge.

- (a) The City Manager or his designee shall assess fuel prices in the city every three months, the first assessment to occur immediately after approval of the ordinance from which this article is derived and again thereafter on November 1, February 1, May 1, and August 1 of each calendar year and repeating every November 1, February 1, May 1, August 1 and/or an assessment may be needed based on a sudden increase in gasoline prices between those dates.

-
- (b) At the time of the assessment, if the City manager or his designee finds that the price of fuel in the city exceeds by 20 percent the average price of fuel in the Atlanta metropolitan area in the preceding year, as published by the American Automobile Association, the City manager or designee shall be authorized to institute temporary fuel surcharges as set forth in this article.
 - (c) Within ten days of the assessment of fuel prices, if the price exceeds the standards of subsection (b) of this section, the City Manager or his designee shall notify all taxicab companies, taxicab drivers, taxicab trade associations, and all other affected persons or entities operating in the taxicab industry within the city of temporary fuel surcharges that may be imposed on customers.
 - (d) If the City Manager or designee authorizes the assessment of temporary fuel surcharges, all taxicab companies and drivers shall charge, in addition to the schedule of fares set forth in section 15-11-5, a fuel surcharge as provided in the city fee schedule.
 - (e) No other temporary fuel charges may be assessed against customers and the temporary fuel surcharges applied only remains in effect until the time of the next periodic fuel price assessment by the police chief or designee.
 - (f) All taxicab drivers must and shall conspicuously display a printed passenger notice on the taxicab dashboard describing the temporary fuel surcharge.
 - (g) The printed notice shall advise passengers that a temporary fuel surcharge will be added to the metered fare or to the flat rate fare due to increases in gasoline prices in the city and shall advise passengers of the amount of the fee as described in subsection (d) of this section.

(Ord. No. 2018-06-01, § 1(15.11.00), 6-18-2018)

ARTICLE XII. SEXUALLY ORIENTED BUSINESSES

Sec. 15.12.1. Findings; public purpose.

- (a) *Purpose.* It is the purpose of this article to regulate sexually oriented businesses in order to promote the health, safety, and general welfare of the citizens of the city, and to establish reasonable and uniform regulations to prevent the deleterious secondary effects of sexually oriented businesses within the city. The provisions of this article have neither the purpose nor effect of imposing a limitation or restriction on the content or reasonable access to any communicative materials, including sexually oriented materials. Similarly, it is neither the intent nor effect of this article to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of this article to condone or legitimize the distribution of obscene material.
- (b) *Findings and rationale.* Based on evidence of adverse secondary effects associated with certain conduct in alcoholic beverage establishments, which effects have been presented in hearings and in reports made available to the City Council, and on findings, interpretations, and narrowing constructions incorporated in numerous cases, including, but not limited to, *City of Littleton v. Z.J. Gifts D-4, L.L.C.*, 541 U.S. 774 (2004); *City of Los Angeles v. Alameda Books, Inc.*, 535 U.S. 425 (2002); *City of Erie v. Pap's AM*, 529 U.S. 277 (2000); *City of Renton v. Playtime Theatres, Inc.*, 475 U.S. 41 (1986); *Young v. American Mini Theatres*, 427 U.S. 50 (1976); *Barnes v. Glen Theatre, Inc.*, 501 U.S. 560 (1991); *California v. LaRue*, 409 U.S. 109 (1972); *N.Y. State Liquor Authority v. Bellanca*, 452 U.S. 714 (1981); *Sewell v. Georgia*, 435 U.S. 982 (1978); *FW/PBS, Inc. v. City of Dallas*, 493 U.S. 215 (1990); *City of Dallas v. Stanglin*, 490 U.S. 19 (1989); and *Flanigan's Enters., Inc. v. Fulton County*, 596 F.3d 1265 (11th Cir. 2010); *Peek-a-Boo Lounge v. Manatee County*, 630 F.3d 1346 (11th Cir. 2011); *Daytona Grand, Inc. v. City of Daytona Beach*, 490 F.3d 860 (11th Cir. 2007); *Jacksonville Property*

Rights Ass'n, Inc. v. City of Jacksonville, 635 F.3d 1266 (11th Cir. 2011); Artistic Entertainment, Inc. v. City of Warner Robins, 331 F.3d 1196 (11th Cir. 2003); Artistic Entertainment, Inc. v. City of Warner Robins, 223 F.3d 1306 (11th Cir. 2000); Williams v. Pryor, 240 F.3d 944 (11th Cir. 2001); Williams v. A.G. of Alabama, 378 F.3d 1232 (11th Cir. 2004); Williams v. Morgan, 478 F.3d 1316 (11th Cir. 2007); Gary v. City of Warner Robins, 311 F.3d 1334 (11th Cir. 2002); Ward v. County of Orange, 217 F.3d 1350 (11th Cir. 2002); Boss Capital, Inc. v. City of Casselberry, 187 F.3d 1251 (11th Cir. 1999); David Vincent, Inc. v. Broward County, 200 F.3d 1325 (11th Cir. 2000); Sammy's of Mobile, Ltd. v. City of Mobile, 140 F.3d 993 (11th Cir. 1998); Lady J. Lingerie, Inc. v. City of Jacksonville, 176 F.3d 1358 (11th Cir. 1999); This That And The Other Gift and Tobacco, Inc. v. Cobb County, 285 F.3d 1319 (11th Cir. 2002); DLS, Inc. v. City of Chattanooga, 107 F.3d 403 (6th Cir. 1997); Grand Faloan Tavern, Inc. v. Wicker, 670 F.2d 943 (11th Cir. 1982); International Food and Beverage Systems v. Ft. Lauderdale, 794 F.2d 1520 (11th Cir. 1986); 5634 E. Hillsborough Ave., Inc. v. Hillsborough County, 2007 WL 2936211 (M.D. Fla. Oct. 4, 2007), aff'd, 2008 WL 4276370 (11th Cir. Sept. 18, 2008) (per curiam); Fairfax MK, Inc. v. City of Clarkston, 274 Ga. 520 (2001); Morrison v. State, 272 Ga. 129 (2000); Flippen Alliance for Community Empowerment, Inc. v. Brannan, 601 S.E.2d 106 (Ga. Ct. App. 2004); Oasis Goodtime Emporium I, Inc. v. DeKalb County, 272 Ga. 887 (2000); Chamblee Visuals, LLC v. City of Chamblee, 270 Ga. 33 (1998); World Famous Dudley's Food and Spirits, Inc. v. City of College Park, 265 Ga. 618 (1995); Airport Bookstore, Inc. v. Jackson, 242 Ga. 214 (1978); Imaginary Images, Inc. v. Evans, 612 F.3d 736 (fourth Cir. 2010); LLEH, Inc. v. Wichita County, 289 F.3d 358 (fifth Cir. 2002); Ocello v. Koster, 354 S.W.3d 187 (Mo. 2011); 84 Video/Newsstand, Inc. v. Sartini, 2011 WL 3904097 (6th Cir. Sept. 7, 2011); Plaza Group Properties, LLC v. Spencer County plan commission, 877 N.E.2d 877 (Ind. Ct. App. 2007); East Brooks Books, Inc. v. Shelby County, 588 F.3d 360 (6th Cir. 2009); Entm't Prods., Inc. v. Shelby County, 588 F.3d 372 (6th Cir. 2009); Sensations, Inc. v. City of Grand Rapids, 526 F.3d 291 (6th Cir. 2008); World Wide Video of Washington, Inc. v. City of Spokane, 368 F.3d 1186 (9th Cir. 2004); Ben's Bar, Inc. v. Village of Somerset, 316 F.3d 702 (7th Cir. 2003); HandA Land Corp. v. City of Kennedale, 480 F.3d 336 (fifth Cir. 2007); Hang On, Inc. v. City of Arlington, 65 F.3d 1248 (fifth Cir. 1995); Fantasy Ranch, Inc. v. City of Arlington, 459 F.3d 546 (fifth Cir. 2006); Illinois One News, Inc. v. City of Marshall, 477 F.3d 461 (7th Cir. 2007); G.M. Enterprises, Inc. v. Town of St. Joseph, 350 F.3d 631 (7th Cir. 2003); Richland Bookmart, Inc. v. Knox County, 555 F.3d 512 (6th Cir. 2009); Bigg Wolf Discount Video Movie Sales, Inc. v. Montgomery County, 256 F. Supp. 2d 385 (D. Md. 2003); Richland Bookmart, Inc. v. Nichols, 137 F.3d 435 (6th Cir. 1998); Spokane Arcade, Inc. v. City of Spokane, 75 F.3d 663 (9th Cir. 1996); DCR, Inc. v. Pierce County, 964 P.2d 380 (Wash. Ct. App. 1998); city of New York v. Hommes, 724 N.E.2d 368 (N.Y. 1999); Taylor v. State, No. 01-01-00505-CR, 2002 WL 1722154 (Tex. App. July 25, 2002); Fantasyland Video, Inc. v. County of San Diego, 505 F.3d 996 (9th Cir. 2007); Gammoh v. City of La Habra, 395 F.3d 1114 (9th Cir. 2005); Starship Enters. of Atlanta, Inc. v. Coweta County, No. 3:09-CV-123, R. 41 (N.D. Ga. Feb. 28, 2011); High Five Investments, LLC v. Floyd County, No. 4:06-CV-190, R. 128 (N.D. Ga. Mar. 14, 2008); 10950 Retail, LLC v. Fulton County, No. 1:06-CV-1923, R. 62 Order (N.D. Ga. Dec. 21, 2006); 10950 Retail, LLC v. Fulton County, No. 1:06-CV-1923, R. 84 Contempt Order (N.D. Ga. Jan. 4, 2007); Z.J. Gifts D-4, L.L.C. v. City of Littleton, Civil Action No. 99-N-1696, Memorandum Decision and Order (D. Colo. March 31, 2001); People ex rel. Deters v. The Lion's Den, Inc., Case No. 04-CH-26, Modified Permanent Injunction Order (Ill. Fourth Judicial Circuit, Effingham County, July 13, 2005); Reliable Consultants, Inc. v. City of Kennedale, No. 4:05-CV-166-A, Findings of Fact and Conclusions of Law (N.D. Tex. May 26, 2005); Goldrush II v. City of Marietta, 267 Ga. 683 (1997); and based upon reports concerning secondary effects occurring in and around sexually oriented businesses, including, but not limited to, "Correlates of Current Transactional Sex among a Sample of Female Exotic Dancers in Baltimore, MD," Journal of Urban Health (2011); "Does the Presence of Sexually Oriented Businesses Relate to Increased Levels of Crime?" Crime and Delinquency (2012) (Louisville, KY); Metropolis, Illinois - 2011-12; Manatee County, Florida - 2007; Hillsborough County, Florida - 2006; Clarksville, Indiana - 2009; El Paso, Texas - 2008; Memphis, Tennessee - 2006; New Albany, Indiana - 2009; Louisville, Kentucky - 2004; Fulton County, GA - 2001; Chattanooga, Tennessee - 1999-2003; Jackson County, Missouri - 2008; Ft. Worth, Texas - 2004; Kennedale, Texas - 2005; Greensboro, North Carolina - 2003; Dallas, Texas - 1997; Houston, Texas - 1997, 1983; Phoenix, Arizona - 1995-98, 1979; Tucson, Arizona - 1990; Spokane, Washington - 2001; St. Cloud, Minnesota - 1994; Austin, Texas - 1986; Indianapolis,

Indiana - 1984; Garden Grove, California - 1991; Los Angeles, California - 1977; Whittier, California - 1978; Oklahoma city, Oklahoma - 1986; New York, New York Times Square - 1994; the Report of the Attorney General's Working Group On The Regulation Of Sexually Oriented Businesses, (June 6, 1989, State of Minnesota); Dallas, Texas - 2007; "Rural Hotspots: The Case of Adult Businesses," 19 Criminal Justice Policy Review 153 (2008); "Stripclubs According to Strippers: Exposing Workplace Sexual Violence," by Kelly Holsopple, Program director, Freedom and Justice Center for Prostitution Resources, Minneapolis, Minnesota; "Sexually Oriented Businesses: An Insider's View," by David Sherman, presented to the Michigan House Committee on Ethics and Constitutional Law, Jan. 12, 2000; Law Enforcement and Private Investigator Affidavits (Pink Pony South, Forest Park, GA, and Adult Cabarets in Sandy Springs, GA), the City Council finds:

- (1) Sexually oriented businesses, as a category of commercial uses, are associated with a wide variety of adverse secondary effects, including, but not limited to, personal and property crimes, prostitution, potential spread of disease, lewdness, public indecency, obscenity, illicit drug use and drug trafficking, negative impacts on surrounding properties, urban blight, litter, and sexual assault and exploitation. Alcohol consumption impairs judgment and lowers inhibitions, thereby increasing the risk of adverse secondary effects.
 - (2) Each of the foregoing negative secondary effects constitutes a harm which the city has a substantial government interest in preventing and/or abating. This substantial government interest in preventing secondary effects, which is the city's rationale for this article, exists independent of any comparative analysis between sexually oriented and non-sexually oriented businesses. Additionally, the city's interest in regulating sexually oriented businesses extends to preventing future secondary effects of either current or future sexually oriented businesses that may locate in the city. The city finds that the cases and documentation relied on in this article are reasonably believed to be relevant to the secondary effects.
- (c) *Adoption of findings of secondary effects.* The city hereby adopts and incorporates herein its stated findings and legislative record related to the adverse secondary effects of sexually oriented businesses, including the judicial opinions and reports related to such secondary effects.

(Ord. No. 2017-08-05, § 7(15.12.1), 8-7-2017)

Sec. 15.12.2. Definitions.

For the purposes of this article, the following words, terms, and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Adult bookstore or adult video store means a commercial establishment which, as one of its principal business activities, offers for sale or rental for any form of consideration any one or more of the following: books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, videocassettes, compact discs, digital video discs, slides, or other visual representations which are characterized by their emphasis upon the display of specified sexual activities or specified anatomical areas. A principal business activity exists where the commercial establishment meets any one or more of the following criteria:

- (1) At least 35 percent of the establishment's displayed merchandise consists of the items;
- (2) At least 35 percent of the retail value (defined as the price charged to customers) of the establishment's displayed merchandise consists of the items;
- (3) At least 35 percent of the establishment's revenues derive from the sale or rental, for any form of consideration, of said items;

-
- (4) The establishment maintains at least 35 percent of its floor space for the display, sale, or rental of the items (aisles and walkways used to access the items shall be included in "floor space" maintained for the display, sale, or rental of the items);
 - (5) The establishment maintains at least 500 square feet of its floor space for the display, sale, and/or rental of the items (aisles and walkways used to access the items shall be included in floor space maintained for the display, sale, or rental of the items);
 - (6) The establishment regularly offers for sale or rental at least 2,000 of the items;
 - (7) The establishment regularly features the items and regularly advertises itself or holds itself out, in any medium, by using the term "adult," "adults-only," "XXX," "sex," "erotic," or substantially similar language, as an establishment that caters to adult sexual interests; or
 - (8) The establishment maintains an adult arcade, which means any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are regularly maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are characterized by their emphasis upon matter exhibiting specified sexual activities or specified anatomical areas.

Adult cabaret means a nightclub, bar, juice bar, restaurant, bottle club, or similar commercial establishment that regularly features live conduct characterized by semi-nudity. No establishment shall avoid classification as an adult cabaret by offering or featuring nudity.

Adult motion picture theater means a commercial establishment where films, motion pictures, videocassettes, slides, or similar photographic reproductions which are characterized by their emphasis upon the display of specified sexual activities or specified anatomical areas are regularly shown to more than five persons for any form of consideration.

Characterized by means describing the essential character or quality of an item. As applied in this article, no business shall be classified as a sexually oriented business by virtue of showing, selling, or renting materials rated NC-17 or R by the Motion Picture Association of America.

Employ, employee, and employment describe and pertain to any person who performs any service on the premises of a sexually oriented business, on a full-time, part-time, or contract basis, regardless of whether the person is denominated an employee, independent contractor, agent, lessee, or otherwise. The term "employee" does not include a person exclusively on the premises for repair or maintenance of the premises or for the delivery of goods to the premises.

Establish or establishment means and includes any of the following:

- (1) The opening or commencement of any sexually oriented business as a new business;
- (2) The conversion of an existing business, whether or not a sexually oriented business, to any sexually oriented business; or
- (3) The addition of any sexually oriented business to any other existing sexually oriented business.

Feature means to give special prominence to.

Floor space means the floor area inside an establishment that is visible or accessible to patrons for any reason, excluding restrooms.

Hearing officer means an attorney, not an employee of the city, who is licensed to practice law in the state, and retained to serve as an independent tribunal to conduct hearings under this article.

Influential interest means any of the following:

-
- (1) The actual power to operate the sexually oriented business or control the operation, management or policies of the sexually oriented business or legal entity which operates the sexually oriented business;
 - (2) Ownership of a financial interest of 30 percent or more of a business or of any class of voting securities of a business; or
 - (3) Holding an office (e.g., president, vice-president, secretary, treasurer, managing member, managing director, etc.) in a legal entity which operates the sexually oriented business.

Licensee means a person in whose name a license to operate a sexually oriented business has been issued, as well as the individual or individuals listed as an applicant on the application for a sexually oriented business license. In the case of an employee, the term "licensee" means the person in whose name the sexually oriented business employee license has been issued.

Nudity means the showing of the human male or female genitals, pubic area, vulva, or anus with less than a fully opaque covering, or the showing of the female breast with less than a fully opaque covering of any part of the nipple and areola.

Operator means any person on the premises of a sexually oriented business who manages, supervises, or controls the business or a portion thereof. A person may be found to be an operator regardless of whether such person is an owner, part owner, or licensee of the business.

Person means an individual, proprietorship, partnership, corporation, association, or other legal entity.

Premises means the real property upon which the sexually oriented business is located, and all appurtenances thereto and buildings thereon, including, but not limited to, the sexually oriented business, the grounds, private walkways, and parking lots and/or parking garages adjacent thereto, under the ownership, control, or supervision of the licensee, as described in the application for a sexually oriented business license.

Regularly means the consistent and repeated doing of an act on an ongoing basis.

Semi-nude or semi-nudity means the showing of the female breast below a horizontal line across the top of the areola and extending across the width of the breast at that point, or the showing of the male or female buttocks. The term "semi-nude" or "semi-nudity" shall include the lower portion of the human female breast, but shall not include any portion of the cleavage of the human female breasts exhibited by a bikini, dress, blouse, shirt, leotard, or similar wearing apparel provided the areola is not exposed in whole or in part.

Semi-nude model studio means a place where persons regularly appear in a state of semi-nudity for money or any form of consideration in order to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons. The term "semi-nude model studio" does not apply to any place where persons appearing in a state of semi-nudity did so in a class operated:

- (1) By a college, junior college, or university supported entirely or partly by taxation;
- (2) By a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation; or
- (3) In a structure:
 - a. Which has no sign visible from the exterior of the structure and no other advertising that indicates a semi-nude person is available for viewing; and
 - b. Where, in order to participate in a class a student must enroll at least three days in advance of the class.

Sexual device means any three dimensional object designed for stimulation of the male or female human genitals, anus, buttocks, female breast, or for sadomasochistic use or abuse of oneself or others and shall include devices commonly known as dildos, vibrators, penis pumps, cock rings, anal beads, butt plugs, nipple clamps, and

physical representations of the human genital organs. Nothing in this definition shall be construed to include devices primarily intended for protection against sexually transmitted diseases or for preventing pregnancy.

Sexual device shop means a commercial establishment that regularly features sexual devices. The term "sexual device shop" shall not be construed to include any pharmacy, drug store, medical clinic, or any establishment primarily dedicated to providing medical or healthcare products or services, or any establishment that does not regularly advertise itself or hold itself out, in any medium, as an establishment that caters to adult sexual interests.

Sexually oriented business means an adult bookstore or adult video store, an adult cabaret, an adult motion picture theater, a semi-nude model studio, or a sexual device shop.

Sexually oriented business employee means only such employees, agents, independent contractors, or other persons, whatever the employment relationship to the business, whose job function includes posing in a state of nudity, or semi-nudity, or exposing to view within the business the specified anatomical areas, as defined by this Code.

Specified anatomical areas means and includes:

- (1) Less than completely and opaquely covered: human genitals, pubic region; buttock; and female breast below a point immediately above the top of the areola; and
- (2) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

Specified criminal activity means any of the following specified crimes for which less than five years has elapsed since the date of conviction or the date of release from confinement for the conviction, whichever is the later date:

- (1) Rape, child molestation, sexual assault, sexual battery, aggravated sexual assault, aggravated sexual battery, or public indecency;
- (2) Prostitution, keeping a place of prostitution, pimping, or pandering;
- (3) Obscenity, disseminating or displaying matter harmful to a minor, or use of child in sexual performance;
- (4) Any offense related to any sexually-oriented business, including controlled substance offenses, tax violations, racketeering, crimes involving sex, crimes involving prostitution, or crimes involving obscenity;
- (5) Any attempt, solicitation, or conspiracy to commit one of the foregoing offenses; or
- (6) Any offense in another jurisdiction that, had the predicate acts been committed in the state, would have constituted any of the foregoing offenses.

Specified sexual activity means any of the following:

- (1) Intercourse, oral copulation, masturbation or sodomy; or
- (2) Excretory functions as a part of or in connection with any of the activities described in subsection (1) of this definition.

Transfer of ownership or control of a sexually oriented business means any of the following:

- (1) The sale, lease, or sublease of the business;
- (2) The transfer of securities which constitute an influential interest in the business, whether by sale, exchange, or similar means; or
- (3) The establishment of a trust, gift, or other similar legal device which transfers the ownership or control of the business, except for transfer by bequest or other operation of law upon the death of the person possessing the ownership or control.

Viewing room means the room, booth, or area where a patron of a sexually oriented business would ordinarily be positioned while watching a film, videocassette, digital video disc, or other video reproduction.

(Ord. No. 2017-08-05, § 7(15.12.2), 8-7-2017)

Sec. 15.12.3. License required.

- (a) *Business license.* It is unlawful for any person to operate a sexually oriented business in the city without a valid sexually oriented business license.
- (b) *Employee license.* It is unlawful for any person to be an employee of a sexually oriented business in the city without a valid sexually oriented business employee license, except that a person who is a licensee under a valid sexually oriented business license shall not be required to also obtain a sexually oriented business employee license.
- (c) *Application.* An applicant for a sexually oriented business license or a sexually oriented business employee license shall file in person at the office of the City Manager or his designee a completed application made on a form provided by the City Manager or his designee. A sexually oriented business may designate an individual with an influential interest in the business to file its application for a sexually oriented business license in person on behalf of the business. The application shall be signed as required by subsection (d) of this section and shall be notarized. An application shall be considered complete when it contains, for each person required to sign the application, the information and/or items required in this subsection, accompanied by the appropriate licensing fee:
 - (1) The applicant's full legal name and any other names used by the applicant in the preceding five years.
 - (2) Current business address or another mailing address for the applicant.
 - (3) Written proof of age, in the form of a driver license, a picture identification document containing the applicant's date of birth issued by a governmental agency, or a copy of a birth certificate accompanied by a picture identification document issued by a governmental agency.
 - (4) If the application is for a sexually oriented business license, the business name, location, legal description, mailing address and phone number of the sexually oriented business.
 - (5) If the application is for a sexually oriented business license, the name and business address of the statutory agent or other agent authorized to receive service of process.
 - (6) A statement of whether an applicant has been convicted of or has pled guilty or nolo contendere to a specified criminal activity, as defined in this article, and if so, each specified criminal activity involved, including the date, place, and jurisdiction of each as well as the dates of conviction and release from confinement, where applicable.
 - (7) A statement of whether any sexually oriented business in which an applicant has had an influential interest, has, in the previous five years (and at a time during which the applicant had the influential interest):
 - a. Been declared by a court of law to be a nuisance; or
 - b. Been subject to a court order of closure.
 - (8) An application for a sexually oriented business license shall be accompanied by a legal description of the property where the business is located and a sketch or diagram showing the configuration of the premises, including a statement of total floor area occupied by the business and a statement of floor area visible or accessible to patrons for any reason, excluding restrooms. The sketch or diagram need not be professionally prepared but shall be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six inches. Applicants who

are required to comply with the stage, booth, and/or room configuration requirements of this article shall submit a diagram indicating that the setup and configuration of the premises meets the requirements of the applicable regulations. The City Manager may waive the requirements of this subsection for a renewal application if the applicant adopts a legal description and a sketch or diagram that was previously submitted and certifies that the configuration of the premises has not been altered since it was prepared.

The information provided pursuant to this subsection (c) of this section shall be supplemented in writing by certified mail, return receipt requested, to the City Manager or his designee within ten working days of a change of circumstances which would render the information originally submitted false or incomplete.

- (d) *Signature.* A person who seeks a sexually oriented business employee license under this section shall sign the application for a license. If a person who seeks a sexually oriented business license under this section is an individual, he shall sign the application for a license as applicant. If a person who seeks a sexually oriented business license is other than an individual, each person with an influential interest in the sexually oriented business or in a legal entity that controls the sexually oriented business shall sign the application for a license as applicant. Each applicant must be qualified under this article and each applicant shall be considered a licensee if a license is granted.
- (e) *Confidentiality.* The information provided by an applicant in connection with an application for a license under this article shall be maintained by the office of the City Manager or his designee on a confidential basis, and such information may be disclosed only as may be required, and only to the extent required, by governing law or court order. Any information protected by the right to privacy as recognized by state or federal law shall be redacted prior to such disclosure.

(Ord. No. 2017-08-05, § 7(15.12.3), 8-7-2017)

Sec. 15.12.4. Issuance of license.

- (a) *Business license.* Upon the filing of a completed application for a sexually oriented business license, the City Manager or his designee shall immediately issue a temporary license to the applicant if the completed application is from a preexisting sexually oriented business that is lawfully operating in the city and the completed application, on its face, indicates that the applicant is entitled to an annual sexually oriented business license. The temporary license shall expire upon the final decision of the city to deny or grant an annual license. Within 30 days of the filing of a completed sexually oriented business license application, the City Manager or his designee shall either issue a license to the applicant or issue a written notice of intent to deny a license to the applicant. The City Manager or his designee shall issue a license unless:
 - (1) An applicant is less than 18 years of age.
 - (2) An applicant has failed to provide information required by this article for issuance of a license or has falsely answered a question or request for information on the application form.
 - (3) The license application fee required by this article has not been paid.
 - (4) The sexually oriented business, as defined herein, is not in compliance with the interior configuration requirements of this article.
 - (5) The sexually oriented business, as defined herein, is not in compliance with the locational requirements of any other part of this Code. However, this ground for denial of a license to operate a sexually oriented business shall not prevent issuance or renewal of a license for a sexually oriented business that was in a location where a sexually oriented business was allowed under law prior to the effective date of the ordinance from which this article is derived, provided that the sexually oriented business has not been discontinued for a continuous period of six months; has not been enlarged;

expanded, moved, or otherwise altered in any manner that increases the degree of nonconformity; and has not had its structure destroyed to an extent exceeding 60 percent of the structure's fair market value at the time of destruction.

- (6) Any sexually oriented business in which an applicant has had an influential interest, has, in the previous five years (and at a time during which the applicant had the influential interest):
 - a. Been declared by a court of law to be a nuisance; or
 - b. Been subject to an order of closure.
- (7) An applicant has been convicted of or pled guilty or nolo contendere to a specified criminal activity, as defined in this article.

(b) *Employee license.* The City Manager or his designee shall issue a license unless:

- (1) The applicant is less than 18 years of age.
- (2) The applicant has failed to provide information as required by this article for issuance of a license or has falsely answered a question or request for information on the application form.
- (3) The license application fee required by this article has not been paid.
- (4) Any sexually oriented business in which the applicant has had an influential interest, has, in the previous five years (and at a time during which the applicant had the influential interest):
 - a. Been declared by a court of law to be a nuisance; or
 - b. Been subject to an order of closure.
- (5) The applicant has been convicted of or pled guilty or nolo contendere to a specified criminal activity, as defined in this article.

(c) *License information.* The license, if granted, shall state on its face the name of the person or persons to whom it is granted, the number of the license issued to the licensees, the expiration date, and, if the license is for a sexually oriented business, the address of the sexually oriented business. The sexually oriented business license shall be posted in a conspicuous place at or near the entrance to the sexually oriented business so that it may be read at any time that the business is occupied by patrons or is open to the public. A sexually oriented business employee shall keep the employee's license on his person or on the premises where the licensee is then working or performing.

(d) *Location requirements.* A license granted under this section does not excuse compliance with, or authorize the violation of, any location or zoning requirements for sexually oriented businesses in effect in the city.

(Ord. No. 2017-08-05, § 7(15.12.4), 8-7-2017)

Sec. 15.12.5. Fees.

The fees charged for the initial license and annual renewal licenses for sexually oriented business and sexually oriented business employee licenses shall be as established by the council, or its designee, in the city's fee schedule.

(Ord. No. 2017-08-05, § 7(15.12.5), 8-7-2017)

Sec. 15.12.6. Inspection.

Sexually oriented businesses and sexually oriented business employees shall permit the City Manager and his agents to inspect, from time to time on an occasional basis, the portions of the sexually oriented business premises where patrons are permitted, for the purpose of ensuring compliance with the specific regulations of this article, during those times when the sexually oriented business is occupied by patrons or is open to the public. This section shall be narrowly construed by the city to authorize reasonable inspections of the licensed premises pursuant to this article, but not to authorize a harassing or excessive pattern of inspections.

(Ord. No. 2017-08-05, § 7(15.12.6), 8-7-2017)

Sec. 15.12.7. Expiration and renewal of license.

- (a) Each license shall remain valid for a period of one calendar year from the date of issuance unless otherwise suspended or revoked. Such license may be renewed only by making application and payment of a fee as provided in this article.
- (b) Application for renewal of an annual license should be made at least 90 days before the expiration date of the current annual license, and when made less than 90 days before the expiration date, the expiration of the current license will not be affected.

(Ord. No. 2017-08-05, § 7(15.12.7), 8-7-2017)

Sec. 15.12.8. Suspension.

- (a) The City Manager shall issue a written notice of intent to suspend a sexually oriented business license for a period not to exceed 30 days if the sexually oriented business licensee has knowingly or recklessly violated this article or has knowingly or recklessly allowed an employee or any other person to violate this article.
- (b) The City Manager shall issue a written notice of intent to suspend a sexually oriented business employee license for a period not to exceed 30 days if the employee licensee has knowingly or recklessly violated this article.

(Ord. No. 2017-08-05, § 7(15.12.8), 8-7-2017)

Sec. 15.12.9. Revocation.

- (a) The City Manager shall issue a written notice of intent to revoke a sexually oriented business license or a sexually oriented business employee license, as applicable, if the licensee knowingly or recklessly violates this article or has knowingly or recklessly allowed an employee or any other person to violate this article and a suspension of the licensee's license has become effective within the previous 12-month period.
- (b) The City Manager shall issue a written notice of intent to revoke a sexually oriented business license or a sexually oriented business employee license, as applicable, if:
 - (1) The licensee has knowingly given false information in the application for the sexually oriented business license or the sexually oriented business employee license;
 - (2) The licensee has knowingly or recklessly engaged in or allowed possession, use, or sale of controlled substances on the premises of the sexually oriented business;
 - (3) The licensee has knowingly or recklessly engaged in or allowed prostitution on the premises of the sexually oriented business;

(Supp. No. 3)

Created: 2023-08-28 12:09:55 [EST]

-
- (4) The licensee knowingly or recklessly-operated the sexually oriented business during a period of time when the license was finally suspended or revoked;
 - (5) The licensee has knowingly or recklessly engaged in or allowed any specified sexual activity or specified criminal activity to occur in or on the premises of the sexually oriented business;
 - (6) The licensee has knowingly or recklessly allowed a person under the age of 21 years to consume alcohol on the premises of the sexually oriented business; or
 - (7) The licensee has knowingly or recklessly allowed a person under the age of 18 years to appear in a semi-nude condition or in a state of nudity on the premises of the sexually oriented business.
- (c) The fact that any relevant conviction is being appealed shall have no effect on the revocation of the license, provided that, if any conviction which serves as a basis of a license revocation is overturned or reversed on appeal, that conviction shall be treated as null and of no effect for revocation purposes.
 - (d) When, after the notice and hearing procedure described in this article, the city revokes a license, the revocation shall continue for one year and the licensee shall not be issued a sexually oriented business license or sexually oriented business employee license for one year from the date revocation becomes effective.

(Ord. No. 2017-08-05, § 7(15.12.9), 8-7-2017)

Sec. 15.12.10. Hearing; license denial, suspension, revocation; appeal.

- (a) Notice of intent; response.
 - (1) When the City Manager or his designee issues a written notice of intent to deny, suspend, or revoke a license, the City Manager or his designee shall immediately send such notice, which shall include the specific grounds under this article for such action, to the applicant or licensee (respondent) by personal delivery or certified mail. The notice shall be directed to the most current business address or other mailing address on file with the City Manager or his designee for the respondent. The notice shall also set forth the following: The respondent shall have ten days after the delivery of the written notice to submit, at the office of the City Manager or his designee, a written request for a hearing. If the respondent does not request a hearing within the ten days, the City Manager's or designee's written notice shall become a final denial, suspension, or revocation, as the case may be, on the 30th day after it is issued, and shall be subject to the provisions of subsection (b) of this section.
 - (2) If the respondent does make a written request for a hearing within the ten days, then the City Manager or his designee shall, within ten days after the submission of the request, send a notice to the respondent indicating the date, time, and place of the hearing. The hearing shall be conducted not less than ten days nor more than 20 days after the date that the hearing notice is issued. The city shall provide for the hearing to be transcribed.
 - (3) At the hearing, the respondent shall have the opportunity to present all of respondent's arguments and to be represented by counsel, present evidence and witnesses on his behalf, and cross examine any of the City Manager's or designee's witnesses. The city shall also be represented by counsel, and shall bear the burden of proving the grounds for denying, suspending, or revoking the license. The hearing shall take no longer than two days, unless extended at the request of the respondent to meet the requirements of due process and proper administration of justice. The hearing officer shall issue a final written decision, including specific reasons for the decision pursuant to this article, to the respondent within five days after the hearing.
 - (4) If the decision is to deny, suspend, or revoke the license, the decision shall advise the respondent of the right to appeal such decision to the superior court of the county, and the decision shall not become

Created: 2023-08-28 12:09:55 [EST]

(Supp. No. 3)

effective until the 30th day after it is rendered. If the hearing officer's decision finds that no grounds exist for denial, suspension, or revocation of the license, the hearing officer shall, contemporaneously with the issuance of the decision, order the City Manager or his designee to immediately withdraw the intent to deny, suspend, or revoke the license and to notify the respondent in writing by certified mail of such action. If the respondent is not yet licensed, the City Manager or his designee shall contemporaneously therewith issue the license to the applicant.

- (b) If any court action challenging a licensing decision is initiated, the city shall prepare and transmit to the court a transcript of the hearing within 30 days after receiving written notice of the filing of the court action. The city shall consent to expedited briefing and/or disposition of the action, shall comply with any expedited schedule set by the court, and shall facilitate prompt judicial review of the proceedings. The following shall apply to any sexually oriented business that is lawfully operating as a sexually oriented business, or any sexually oriented business employee that is lawfully employed as a sexually oriented business employee, on the date on which the completed business or employee application, as applicable, is filed with the City Manager: Upon the filing of any court action to appeal, challenge, restrain, or otherwise enjoin the city's enforcement of any denial, suspension, or revocation of a temporary license or annual license, the City Manager shall immediately issue the respondent a provisional license. The provisional license shall allow the respondent to continue operation of the sexually oriented business or to continue employment as a sexually oriented business employee and will expire upon the court's entry of a judgment on the respondent's appeal or other action to restrain or otherwise enjoin the city's enforcement.

(Ord. No. 2017-08-05, § 7(15.12.10), 8-7-2017)

Sec. 15.12.11. Transfer of license.

A licensee shall not transfer his license to another, nor shall a licensee operate a sexually oriented business under the authority of a license at any place other than the address designated in the sexually oriented business license application.

(Ord. No. 2017-08-05, § 7(15.12.11), 8-7-2017)

Sec. 15.12.12. Hours of operation.

No sexually oriented business shall be or remain open for business between 12:00 midnight and 6:00 a.m. on any day after July 1, 2017.

(Ord. No. 2017-08-05, § 7(15.12.12), 8-7-2017)

Sec. 15.12.13. Regulations pertaining to exhibition of sexually explicit films on premises.

- (a) A person who operates or causes to be operated a sexually oriented business which exhibits in a booth or viewing room on the premises, through any mechanical or electronic image-producing device, a film, videocassette, digital video disc, or other video reproduction characterized by an emphasis on the display of specified sexual activities or specified anatomical areas shall comply with the following requirements.
- (1) Each application for a sexually oriented business license shall contain a diagram of the premises showing the location of all operator's stations, booths or viewing rooms, overhead lighting fixtures, and restrooms, and shall designate all portions of the premises in which patrons will not be permitted. Restrooms shall not contain equipment for displaying films, videocassettes, digital video discs, or other video reproductions. The diagram shall also designate the place at which the license will be conspicuously posted, if granted. A professionally prepared diagram in the nature of an engineer's or

-
- architect's blueprint shall not be required; however, each diagram shall be oriented to the north or to some designated street or object and shall be drawn to a designated scale or with marked dimensions sufficient to show the various internal dimensions of all areas of the interior of the premises to an accuracy of plus or minus six inches. The City Manager may waive the foregoing diagram for renewal applications if the applicant adopts a diagram that was previously submitted and certifies that the configuration of the premises has not been altered since it was prepared.
- (2) It shall be the duty of the operator, and of any employees present on the premises, to ensure that no patron is permitted access to any area of the premises which has been designated as an area in which patrons will not be permitted.
 - (3) The interior premises shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access at an illumination of not less than five footcandles as measured at the floor level. It shall be the duty of the operator, and of any employees present on the premises, to ensure that the illumination described in this subsection is maintained at all times that the premises is occupied by patrons or open for business.
 - (4) It shall be the duty of the operator, and of any employees present on the premises, to ensure that no specified sexual activity occurs in or on the licensed premises.
 - (5) It shall be the duty of the operator to post conspicuous signs in well-lighted entry areas of the business stating all of the following:
 - a. That the occupancy of viewing rooms less than 150 square feet is limited to one person.
 - b. That specified sexual activity on the premises is prohibited.
 - c. That the making of openings between viewing rooms is prohibited.
 - d. That violators will be required to leave the premises.
 - e. That violations of these regulations are unlawful.
 - (6) It shall be the duty of the operator to enforce the regulations articulated in subsections (a)(5)(a) through (e) of this section.
 - (7) The interior of the premises shall be configured in such a manner that there is an unobstructed view from an operator's station of every area of the premises, including the interior of each viewing room but excluding restrooms, to which any patron is permitted access for any purpose. An operator's station shall not exceed 32 square feet of floor area. If the premises has two or more operator's stations designated, then the interior of the premises shall be configured in such a manner that there is an unobstructed view of each area of the premises to which any patron is permitted access for any purpose, excluding restrooms, from at least one of the operator's stations. The view required in this subsection must be by direct line of sight from the operator's station. It is the duty of the operator to ensure that at least one employee is on duty and situated in each operator's station at all times that any patron is on the premises. It shall be the duty of the operator, and it shall also be the duty of any employees present on the premises, to ensure that the view area specified in this subsection remains unobstructed by any doors, curtains, walls, merchandise, display racks or other materials or enclosures at all times that any patron is present on the premises.
 - (8) It shall be the duty of the operator to ensure that no porous materials are used for any wall, floor, or seat in any booth or viewing room.
- (b) It is unlawful for a person having a duty under subsections (a)(1) through (8) of this section to knowingly or recklessly fail to fulfill that duty.
 - (c) No patron shall knowingly or recklessly enter or remain in a viewing room less than 150 square feet in area that is occupied by any other patron.

(d) No patron shall knowingly or recklessly be or remain within one foot of any other patron while in a viewing room that is 150 square feet or larger in area.

(e) No person shall knowingly or recklessly make any hole or opening between viewing rooms.

(Ord. No. 2017-08-05, § 7(15.12.13), 8-7-2017)

Sec. 15.12.14. Loitering, exterior lighting and monitoring, and interior lighting requirements.

(a) It shall be the duty of the operator of a sexually oriented business to ensure that at least two conspicuous signs stating that no loitering is permitted on the premises are posted on the premises; designate one or more employees to monitor the activities of persons on the premises by visually inspecting the premises at least once every 90 minutes or inspecting the premises by use of video cameras and monitors; and provide lighting to the exterior premises to provide for visual inspection or video monitoring to prohibit loitering. Said lighting shall be of sufficient intensity to illuminate every place to which customers are permitted access at an illumination of not less than one (1.0) footcandle as measured at the floor level. If used, video cameras and monitors shall operate continuously at all times that the premises are open for business. The monitors shall be installed within an operator's station.

(b) It shall be the duty of the operator of a sexually oriented business to ensure that the interior premises shall be equipped with overhead lighting of sufficient intensity to illuminate every place to which customers are permitted access at an illumination of not less than five (5.0) footcandles as measured at the floor level and the illumination must be maintained at all times that any customer is present in or on the premises.

(c) No sexually oriented business shall erect a fence, wall, or similar barrier that prevents any portion of the parking lots for the establishment from being visible from a public right-of-way.

(d) It is unlawful for a person having a duty under this section to knowingly or recklessly fail to fulfill that duty.

(Ord. No. 2017-08-05, § 7(15.12.14), 8-7-2017)

Sec. 15.12.15. Penalties and enforcement.

(a) A person who violates any of the provisions of this article shall be guilty of a violation and, upon conviction, shall be punishable by fines not to exceed \$1,000.00 per violation, or by imprisonment for a period not to exceed six months, or by both such fine and imprisonment. Each day a violation is committed, or permitted to continue, shall constitute a separate offense and shall be fined as such.

(b) Any premises, building, dwelling, or other structure in which a sexually oriented business is repeatedly-operated or maintained in violation of this article shall constitute a nuisance and shall be subject to civil abatement proceedings in a court of competent jurisdiction.

(c) The city's legal counsel is authorized to institute civil proceedings necessary for the enforcement of this article to enjoin, prosecute, restrain, or correct violations hereof. Such proceedings shall be brought in the name of the city; provided, however, that nothing in this section and no action taken hereunder, shall be held to exclude such criminal or administrative proceedings as may be authorized by other provisions of this article, or any of the laws in force in the city or to exempt anyone violating this Code or any part of the laws from any penalty which may be incurred.

(Ord. No. 2017-08-05, § 7(15.12.15), 8-7-2017)

Sec. 15.12.16. Applicability of article to existing businesses.

- (a) *Licensing Requirements.* All preexisting sexually oriented businesses lawfully operating in the City in compliance with all state and local laws prior to the effective date of the ordinance from which this article is derived, and all sexually oriented business employees working in the City prior to the effective date of the ordinance from which this article is derived, are hereby granted a De Facto Temporary License to continue operation or employment for a period of 120 days following the effective date of the ordinance from which this article is derived. By the end of said 120 days, all sexually oriented businesses and sexually oriented business employees must apply for a license under this article.
- (b) *Interior Configuration Requirements.* Any preexisting sexually oriented business that is required to, but does not, have interior configurations or stages that meet at least the minimum requirements of section 15.12.13 and subsection 15.12.17(b) shall have 120 days from the effective date of the ordinance from which this article is derived to conform its premises to said requirements. During said 120 days, any employee who appears within view of any patron in a semi-nude condition shall nevertheless remain, while semi-nude, at least six feet from all patrons.

(Ord. No. 2017-08-05, § 7(15.12.16), 8-7-2017)

Sec. 15.12.17. Prohibited conduct.

- (a) No patron, employee, or any other person shall knowingly or intentionally, in a sexually oriented business, appear in a state of nudity or engage in a specified sexual activity.
- (b) No person shall knowingly or intentionally, in a sexually oriented business, appear in a semi-nude condition unless the person is an employee who, while semi-nude, remains at least six feet from all patrons and on a stage at least 18 inches from the floor in a room of at least 600 square feet.
- (c) No employee who appears semi-nude in a sexually oriented business shall knowingly or intentionally touch a customer or the clothing of a customer on the premises of a sexually oriented business. No customer shall knowingly or intentionally touch such an employee or the clothing of such an employee on the premises of a sexually oriented business.
- (d) No person shall possess, use, or consume alcoholic beverages on the premises of a sexually oriented business after July 1, 2017.
- (e) No person shall knowingly or recklessly allow a person under the age of 18 years to be or remain on the premises of a sexually oriented business.
- (f) No operator of a sexually oriented business shall knowingly or recklessly allow a room in the sexually oriented business to be simultaneously occupied by any patron and any employee who is semi-nude or who appears semi-nude on the premises of the sexually oriented business, unless an operator of the sexually oriented business is present in the same room.
- (g) No operator or licensee of a sexually oriented business shall violate the regulations in this section or knowingly or recklessly allow an employee or any other person to violate the regulations in this section.
- (h) A sign in a form to be prescribed by the City Manager, and summarizing the provisions of subsections (a) through (e) of this section, shall be posted near the entrance of the sexually oriented business in such a manner as to be clearly visible to patrons upon entry. No person shall cover, obstruct, or obscure the sign.

(Ord. No. 2017-08-05, § 7(15.12.17), 8-7-2017)

Sec. 15.12.18. Scierter required to prove violation or business licensee liability.

This article does not impose strict liability. Unless a culpable mental state is otherwise specified herein, a showing of a reckless mental state is necessary to establish a violation of a provision of this article. Notwithstanding anything to the contrary, for the purposes of this article, an act by an employee that constitutes grounds for suspension or revocation of that employee's license shall be imputed to the sexually oriented business licensee for the purposes of finding a violation of this article, or for the purposes of license denial, suspension, or revocation, only if an officer, director, or general partner, or a person who managed, supervised, or controlled the operation of the business premises, knowingly or recklessly allowed such act to occur on the premises. It shall be a defense to liability that the person to whom liability is imputed was powerless to prevent the act.

(Ord. No. 2017-08-05, § 7(15.12.18), 8-7-2017)

Sec. 15.12.19. Spacing requirements.

- (a) It is unlawful to establish, operate, or cause to be operated a sexually oriented business in the city within 500 feet of another sexually oriented business. Measurements for this subsection shall be made in a straight line without regard to intervening structures or objects, between the closest points on the property lines of the two sexually oriented businesses.
- (b) It is unlawful to establish, operate, or cause to be operated a sexually oriented business in the city within 500 feet of a residential district, place of worship, park, or public library. Measurements for this subsection shall be made in a straight line without regard to intervening structures or objects, from the closest part of the structure containing the sexually oriented business to the closest point on the boundary line of the residential district or the closest point on the property line of the place of worship, park, or public library.

(Ord. No. 2017-08-05, § 7(15.12.19), 8-7-2017)

ARTICLE XIII. MULTIFAMILY RENTAL DWELLINGS

Sec. 15-13-1. Definitions.

For the purpose of this article, certain terms and words are defined. Where words have not been defined, but are defined in chapter 1, those words shall have the meaning defined therein. The following words, terms, and phrases, when used in this article, shall have the meanings ascribed to them as directed below, except where the context clearly indicates a different meaning:

Certified building inspector means a person who has been authorized to perform inspections pursuant to the process established by this article, provided that such person maintains the qualifications for certification as established by this article.

Compliance certificate means a certificate, in a form authorized by the City Manager or his designee, executed by a certified building inspector showing compliance with those minimum requirements described in the inspection report attached thereto.

Inspection report means the report attached to the code compliance certificate describing minimum requirements for inspection of each unit.

Lease means any written or oral agreement that sets forth any and all conditions concerning the use and occupancy of multifamily rental dwellings or multifamily rental units.

Multifamily rental dwelling means any dwelling unit designed for and containing more than one lodging or dwelling unit, as defined in chapter 27, article 9, of the City of Stonecrest Code of Ordinances, that is leased to a residential tenant or tenants for use as a home, residence, or sleeping unit. The term "multifamily rental dwelling," includes, but is not limited to, multifamily dwelling units, multifamily apartments, duplexes, triplexes, boardinghouses, rooming houses, group homes, and flats.

Multifamily rental unit means any one area, room, structure, flat, apartment, or facility of a multifamily rental dwelling that is leased or available for lease to an occupant.

Occupant means any person who is a tenant, lessee, or a person residing within a multifamily rental dwelling or multifamily rental unit.

Owner means any person, agent, firm, or corporation having a legal or equitable interest in the premises.

Premises means any lot or parcel of real property on which exists one or more multifamily rental dwellings or multifamily rental units.

(Ord. No. 2018-06-01, § 3(15.13.1), 6-18-2018)

Sec. 15-13-2. Certification process, requirements, forms and appeals.

- (a) *Process.* The City Manager or his designee shall create the process for certifying building inspectors, shall establish the requirements and application for becoming a certified building inspector, and shall administer the process. A nonrefundable administrative fee set by the city council shall be required to be submitted with all applications to be a certified building inspector. Persons who have successfully completed the certification process issued by the City Manager or his designee shall be designated as certified building inspectors authorized to perform the inspections required by this article.
- (b) *Compliance certificates and inspection reports.* The City Manager or his designee is authorized to create the forms for compliance certificates and inspection reports. At a minimum, inspection reports submitted to the city must contain the certified building inspector's signature and date of certification. A certified building inspector shall personally perform the inspections required by this article. The certified building inspector signing the inspection report and performing the inspection shall not be an employee of, otherwise related to, or affiliated in any way with any owner or occupant of the multifamily rental dwelling or multifamily rental dwelling unit being inspected. Failure to have a certified building inspector personally perform an inspection shall nullify any such compliance certificate.
- (c) *Certified building inspectors.*
 - (1) *Minimum requirements.* At a minimum, a certified building inspector shall be a licensed architect or engineer or shall hold one of the following certifications from the International Code Council: property maintenance and housing inspector, housing rehabilitation inspector, building inspector, building plan examiner or commercial combination inspector.
 - (2) *Denial of certification.* Upon receipt of a complete application to be a certified building inspector, the City Manager or his designee shall have 45 days to grant or deny the application. If denied, the City Manager or his designee shall notify the applicant in writing of the reasons for the denial at the address set forth on the application.
 - (3) *Revocation of certification.* Upon a certified building inspector's conviction of a violation of section 15-13-4(c) of this article, or if a certified building inspector no longer meets the minimum requirements set forth in this article, the City Manager or his designee shall revoke the authority of that individual to act as a certified building inspector. The City Manager or his designee shall notify the individual in writing of the reasons for the revocation at the address set forth on the application to be a certified building inspector.

-
- (4) *Appeals.* Any applicant or certified building inspector believes the provisions of this article have been applied in error may file an appeal therefrom in accordance with article XVI of this chapter.

(Ord. No. 2018-06-01, § 3(15.13.2), 6-18-2018)

Sec. 15-13-3. Inspection, certificate and fee required.

Commencing on January 1, 2019, it shall be unlawful for any owner or agent of an owner to engage in the leasing of a multifamily rental unit without first possessing a compliance certificate.

- (a) *Compliance certificate.* A compliance certificate shall contain the certification of a certified building inspector that all multifamily rental dwellings and/or multifamily rental units subject to this article have been inspected within the 12-month period immediately preceding the date of certification and are in compliance with applicable provisions of the Code and the requirements set forth in the code compliance certificate and inspection report.
- (1) Commencing on January 1, 2019, all owners of multifamily rental dwellings and/or multifamily rental units within the incorporated parts of the city that receive income from four or more such units and meet the requirements of O.C.G.A. § 48-13-5 for having a location or office within the incorporated parts of the city shall file, simultaneously with their business occupation tax return, code compliance certificates covering 100 percent of the owner's multifamily rental units located within the incorporated parts of the city.
- (2) After submission of the initial code compliance certificates, owners shall submit code compliance certificates annually with their business occupational tax return. Each subsequent code compliance certificate shall show an internal and external inspection of at least 20 percent of the units on a premises and all units on the premises shall be inspected, at a minimum, every five years. All units inspected shall be listed individually on the code compliance certificate submitted by the certified building inspector.
- (b) *Fee.* A nonrefundable administrative fee set by the city council shall be required to be submitted with all code compliance certificates.
- (c) *Inspections and repairs.* Upon initial inspection of multifamily rental dwellings and multifamily rental units subject to this article, should a certified building inspector determine that further work is necessary to comply with the minimum standards set forth in the Code, an acceptable plan shall be submitted to the building official, outlining the time and scope of work necessary to bring the units into compliance. If the plan is accepted by the building official as reasonable and justified, an extension of the time for compliance with this article may be granted for up to six months so that necessary repairs may be completed. No extension shall be granted if life or safety issues are involved, and none of the units where life or safety issues are involved shall be leased until brought into compliance with the minimum standards set forth in the Code. For years subsequent to the initial year, the six month extension for repairs is not available.
- (d) *Written record of inspection.* Each owner and certified building inspector shall for a period of five years from the date of inspection keep a written record of inspection for each multifamily rental dwelling and/or multifamily rental unit, including the date of the inspection, items inspected, and all violations, if any, observed. These records shall be presented to the building official within ten business days after a request is made in writing to the owner or inspector. Failure to provide these records shall nullify the compliance certificate for such dwellings or units.
- (e) *Exemptions.* Provided all other required permits, certificates and/or permissions are obtained from the city, this section shall not apply to multifamily rental dwellings or multifamily rental units for a period of five years following issuance of a certificate of occupancy for such dwelling or unit.

(Ord. No. 2018-06-01, § 3(15.13.3), 6-18-2018)

Sec. 15-13-4. Violations.

- (a) No business occupation tax certificate shall be issued to any owner until the owner provides the city with a code compliance certificate in the form and manner required by this article.
- (b) Any person who does anything prohibited or fails to do anything required by this article, shall upon conviction, be punished as provided by this Code.
- (c) An owner who knowingly furnishes or participates in furnishing a code compliance certificate to the city falsely certifying that all multifamily rental dwellings or multifamily rental units inspected are in compliance with the requirements set forth in the code compliance certificate shall be guilty of a violation of this article for each multifamily rental dwelling or multifamily rental unit for which the certification is shown to be false.
- (d) A certified building inspector who knowingly furnishes or participates in furnishing an inspection report containing false information that a multifamily rental dwelling or multifamily rental unit meets the minimum housing standards of the city as shown by the inspection report shall be guilty of a violation of this article.

(Ord. No. 2018-06-01, § 3(15.13.4), 6-18-2018)

Secs. 15-13-5—15-13.51. Reserved.

ARTICLE XIV. FILM PRODUCTION

Sec. 15.14.1. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Applicant means the individual applying for a permit, who is legally authorized to bind the producer.

Application means the document created by the Department of Economic Development that must be completed and submitted to the director by a producer or the producer's authorized representative, in order to request a permit.

Change request means the document created by the director that must be completed and submitted to the Department of Economic Development by a producer or the producer's authorized representative in order to request a material change to a permit.

Department means the Department of Economic Development.

Department of Economic Development means the Department of Economic Development, and its designee.

Director means the Director of the Economic Department, and his designee.

Element means an activity that is listed in Code section 15.14.6 below.

Entertainment industry work means the production of motion pictures, television series, commercials, music videos, interactive games and animation, where the final product is intended to be commercially released and/or commercially distributed.

Filming means creating motion picture images on public property or private property, including the on-site/on-location pre-production activities associated therewith, where the final product is intended to be commercially released and/or commercially distributed. Filming does not include activities performed as part of:

- 1) Documenting current affairs; or
- 2) Producing newscasts.

In addition, filming does not include location scouting.

Impact with regards to public property, means (1) Use of intellectual property belonging to the city; (2) Closure of a city or state street, lane and/or sidewalk; (3) Use of pyrotechnics or other explosives; (4) Smoke effects, water effects or flame effects; (5) Display of real or artificial fire arms, grenades or other weapons that would cause the public to fear violence; (6) Vehicle chases and/or vehicle crashes; (7) Use of large or any other equipment that has a reasonable likelihood of causing damage to public property; (8) Use of wild animals controlled under federal or state law or county and/or municipal ordinances; (9) Use of city or state streets and/or lanes for the parking of trailers or vehicles associated with the filming activity that are likely to restrict the flow of traffic; (10) If another permit and/or license or any type of inspection is required by the ordinances of the city for the filming activity; (11) A gathering that lasts for more than one hour, has more than 75 attendees; or (12) any combination of the above.

Permit means a permit validly issued by the Department of Economic Development that authorizes filming and the elements contained therein, if any.

Producer means an individual, organization, corporation or any other entity that is ultimately responsible for the filming that is the subject of the application and the permit (where applicable).

Public property means real property owned by the city or for which the city is a lessee, including, without limitation, parks, streets, sidewalks, other rights-of-way, and buildings. The term "public property" shall not include real property which is being leased by the city to a lessee.

Private property means real property owned or leased by an individual or non-governmental entity, including, for example, residential homes and commercial developments.

(Ord. No. 2017-10-03, § 1(15.14.1), 10-16-2017; Ord. No. 2023-01-02, § 1(Exh. A), 1-23-2023)

Sec. 15.14.2. Purpose and intent.

The intent of the city in adopting this entertainment filming ordinance is to facilitate entertainment industry work performed in Stonecrest while safeguarding the interests of Stonecrest's residents and businesses. This article strengthens the city's ability to anticipate and provide adequate services for the multiple filming projects throughout Stonecrest. It also enhances the city's ability to accommodate unanticipated circumstances and requested changes. The Department of Economic Development, similarly, will respond to the needs of Stonecrest's neighborhoods regarding entertainment industry work and will promote community awareness of the entertainment industry's impact upon Stonecrest's economic development. This article furthers the city's commitment to being a best-in-class location to work and to live.

(Ord. No. 2017-10-03, § 1(15.14.2), 10-16-2017)

Sec. 15.14.3. Department of economic development as resource and liaison.

The Department of Economic Development will serve as a resource for Stonecrest's residents and businesses, providing information upon request about current or scheduled filming, helping to resolve problems that arise from entertainment industry work, and acting as a liaison between residents, businesses and the

entertainment industry to address inconvenience experienced generally and with regard to a specific project. The Department of Economic Development will also serve as an ambassador to the entertainment industry, providing information, answering questions, helping to resolve challenges and facilitating the industry's work in the city. The Department of Economic Development will implement other mechanisms that enhance the experience of all people performing and effected by entertainment industry work, which may include an informational webpage and on-line permitting. While permits are required for entertainment industry work that occurs on public and private property, the Department of Economic Development will be a resource and liaison for all entertainment industry work, including work that occurs on private property.

(Ord. No. 2017-10-03, § 1(15.14.3), 10-16-2017; Ord. No. 2023-01-02 , § 1(Exh. A), 1-23-2023)

Sec. 15.14.4. Permits for filming.

- (1) Any producer that wishes to perform filming must first obtain a filming permit. No person shall use any public property or facility, or private property, facility or residence where such use will have an Impact on public property for the purpose of filming without first applying for and obtaining a permit pursuant to this Article.
- (2) Filming permits shall be issued by the Department of Economic Development. Permits shall be issued to the producer.
- (3) A permit will specify the filming that may occur at a particular location at a particular time. The permit will authorize elements to be performed as part of the filming, provided that the elements have been approved by the Department of Economic Development. After receiving a permit, a producer may request modifications to the permit as described in subsection 15.14.8(1) below.
- (4) Where the filming application includes a request to close a city street, lane and/or sidewalk during the transition period for the City of Stonecrest, the request will be processed by DeKalb County in accordance with DeKalb County's ordinances, guidelines, and regulations.
- (5) A producer that receives a permit is responsible for knowing and complying with all other laws, including other ordinances and regulations, that establish prerequisites, authorizations and other required permissions applicable to the filming.
- (6) Where permitted filming includes signs or other displays of speech which would require a permit under chapter 21 or otherwise be prohibited under the Code, the signs and/or displays must be removed upon the expiration of the permit.
- (7) Notwithstanding any other part of this Code, any producer that performs filming without receiving a permit, violates the material terms of a permit, or is otherwise in violation of this entertainment filming ordinance, shall be subject to the provisions of section 1-11 of the Code.
- (8) While it is the intent of the city to honor each permit, the issuance of such permit shall not grant the producer a constitutionally protected property interest.

(Ord. No. 2017-10-03, § 1(15.14.4), 10-16-2017; Ord. No. 2023-01-02 , § 1(Exh. A), 1-23-2023)

Sec. 15.14.5. Exemption from filming permit requirement; first amendment activity.

The following types of filming are exempt from the permitting requirement of subsection 15.14.4(1) above. This provision does not exempt a producer from complying with other applicable Code provisions, laws, ordinances or regulations that require elements or other activities included in the filming to be permitted or approved by the appropriate governmental entity.

-
- (1) Filming associated with any permitted or unpermitted rally, protest or demonstration, except when the same is staged for the sole purpose of being included in the filming's final product.
 - (2) Filming associated with an outdoor event that is authorized by a city-issued permit, except when the same is staged for the sole purpose of being included in the filming's final product.
 - (3) The provisions of this article shall not apply to film activities for the purpose of News Media.
 - (4) The recording of visual images (motion or still photography) solely for private use and not for commercial use associated with personal/family video.
 - (5) Film activities (motion or still photography) conducted at or within a properly-licensed studio.
 - (6) The owner of any small business, as defined by the size standards of the Small Business Administration (SBA), may film a commercial for said business at their properly licensed business location without a permit, so long as the filming takes place wholly inside the private premises of the business location or immediately outside the premises so long as the filming does not substantially interfere with any vehicular or pedestrian traffic on the public right-of-way.

(Ord. No. 2017-10-03, § 1(15.14.5), 10-16-2017; Ord. No. 2023-01-02, § 1(Exh. A), 1-23-2023)

Sec. 15.14.6. Filming elements.

- (1) An applicant shall indicate on the application each of the elements listed below that will be included in the filming.
- (2) The final decision of whether to allow the element shall be made by the Department of Economic Development, and communicated to the applicant by the Department of Economic Development. Prior to denying permission to perform an element, representatives of the Department of Economic Development shall consult with the producer in an attempt to find alternative ways to accommodate the producer's filming needs.
- (3) Where the element requires approval from an additional governmental jurisdiction, the producer must obtain that approval as well.
- (4) The elements are as follows:
 - (a) Night-time filming with the use of outdoor lighting where a residence exists within 150 feet from the location of an outdoor light;
 - (b) Filming in buildings that are owned by the city and not leased to a third-party, or in buildings of which the city is a lessee;
 - (c) Use of intellectual property belonging to the city;
 - (d) Closure of a street, lane and/or sidewalk;
 - (e) Use of pyrotechnics or other explosives;
 - (f) Smoke effects, water effects, or flame effects;
 - (g) Display of real or artificial fire arms, grenades, or other weapons that would cause the public to fear violence;
 - (h) Vehicle chases and/or vehicle crashes;
 - (i) Dangerous stunts that have a reasonable likelihood of causing substantial personal injury;
 - (j) Use of large or any other equipment that has a reasonable likelihood of causing damage to public property;

Created: 2023-08-28 12:09:55 [EST]

(Supp. No. 3)

-
- (k) Filming in a city park; and
 - (l) Use of wild animals controlled under federal, state, county, or city law and/or ordinances.

(Ord. No. 2017-10-03, § 1(15.14.6), 10-16-2017; Ord. No. 2023-01-02 , § 1(Exh. A), 1-23-2023)

Sec. 15.14.7. Processing of permit applications.

A producer that wishes to perform filming must submit to the Department of Economic Development a completed application and the application fee set forth in Code section 15.14.11 below. Where the producer is an organization, corporation or other entity, the application must be signed and submitted by an individual authorized to bind the producer. The Department of Economic Development will process the applications and the director will make permit determinations in accordance with this article XIV.

- (1) The application shall include, but not be limited to, the following:
 - a. The filming project name;
 - b. The name and contact information of the applicant, including postal address, email address, and telephone number;
 - c. A valid photo identification of the applicant;
 - d. The name and contact information of the producer (if the applicant is not the producer);
 - e. The dates, times and locations of the filming for which a permit is being requested, and a general description of the filming activity that will occur at each location;
 - f. A description of any elements that may be performed during the filming, including the dates, times and locations of each;
 - g. A description of any aspects of the filming, other than the elements, that may require city services;
 - h. A description of any assistance the producer may need from the city and/or concerns that the producer wants the city to be aware of; and
 - i. Where the producer is a student, an official letter or document from his school confirming that he is currently enrolled there. In addition, the student must appear in person and present his current student identification card and a valid driver license. Where the student does not have a driver license, he may present a different form of identification that includes his photo.
- (2) When more than one application is received for filming at substantially the same place and time, and the director reasonably determines that the filmings cannot logistically and/or safely occur together, the earlier or earliest of the applications that is received by the Department of Economic Development in a substantially completed form, which includes submission of the requisite application fee, shall be given priority as to the time and place requested. The Department of Economic Development shall make reasonable efforts to consult with the other applicants in an attempt to find alternative times and/or locations that are acceptable.
- (3) Film permit applications must be submitted to the Department of Economic Development at least three days prior to the proposed effective date of the permit to avoid rush permit fees as outlined in section 15.4.11.
- (4) The Department of Economic Development shall compile and maintain rules and guidelines for filming, including the elements that are part of the filming, and shall apply those rules and guidelines equally regardless of the subject matter of the filming and/or the content of the speech therein.

-
- (5) In the event that permission to perform an element is denied pursuant to subsection 15.14.6(2) above, the Department of Economic Development will process the remainder of the permit and grant all other aspects of the filming for which the requirements have been met.
- (6) The Department of Economic Development may deny an application only if the director reasonably determines that one or more of the below-listed conditions exists. Prior to denial, the Department of Economic Development shall make reasonable efforts to consult with the producer in an attempt to resolve issues of concern and/or find alternative ways to accommodate the producer's filming needs, as described in subsections (7) through (10) of this section.
- a. The filming poses an unreasonable risk of personal injury or property damage to people or property not associated with the filming;
 - b. The filming poses an unreasonable risk of damage to public property that could not be quickly and/or fully remediated;
 - c. The date and time requested for a particular filming location conflicts with previously-issued permits or permissions for filming, outdoor events, or other activities;
 - d. Use of the filming location, or use of the location during the date or time requested, would unreasonably interfere with the operation of city functions;
 - e. Use of the filming location or the proposed activity at the location would violate a law, ordinance, statute or regulation, regardless of whether the illegal activity is part of the message or content of the filming. A permit shall not be denied based upon simulation of an illegal activity where the actual illegal activity is not being performed;
 - f. The producer owes an outstanding debt to the city;
 - g. The producer previously caused significant damage to public property and, at the time of submitting the application under consideration, failed to adequately repair the damage or pay in full the city's invoice for damage repair and restoration services;
 - h. The producer previously violated this entertainment filming ordinance on two or more occasions, including without limitation by violating a material condition and/or restriction of a permit;
 - i. On two or more occasions, the producer's entertainment industry work in the city violated a city ordinance or other applicable law; and
 - j. The applicant made a material misrepresentation or gave incorrect material information on the application.
- (7) Prior to denying an application, if the Department of Economic Development determines that the requested filming includes one or more of the conditions described in subsection (6)a., b., c., or d. of this section, the Department of Economic Development shall employ reasonable efforts to identify alternative filming locations, times and/or dates that eliminate the unacceptable conditions and that are mutually acceptable to the producer and the city. The producer shall modify the application to incorporate any agreed-upon alternatives.
- (8) Prior to denying an application, if the Department of Economic Development determines that the requested filming or related activity creates a violation as described in subsection (6)c. of this section, the Department of Economic Development shall allow the producer to revise the application so that the filming activities comply with applicable law.
- (9) Prior to denying an application pursuant to subsection (6)f. or g. of this section, the Department of Economic Development shall notify the producer of the potential denial and allow her/him to remedy the conditions described in those subsections. The Department of Economic Development shall process the application after such repair, restoration or payment is complete, and may require the producer to

obtain a refundable sanitation bond for the filming permit in an amount equivalent to the cost of the repair, restoration or debt.

- (10) Prior to denying an application pursuant to subsection (6)h., i. or j. of this section, the Department of Economic Development shall provide the applicant an opportunity to present documents or other evidence that refutes the director's finding of previous permit violations, of previous violations of the law, or of misrepresentation or misinformation on the application, as applicable.
- (11) Where the director has complied with subsections (7), (8), (9) and/or (10) of this section and reasonably determines that one or more of the conditions set forth in subsection (6) of this section continues to exist and that the application should therefore be denied, the director shall issue a written communication to the applicant that includes a detailed explanation for the denial. Nothing in this subsection shall preclude the director from also notifying the applicant orally.
- (12) If the director denies an application, the applicant shall have the right to appeal the decision to the city manager or his designee, provided that a written request for such appeal is made to the city manager within three business days after the applicant's receipt of the director's determination. The person considering the appeal must be impartial, and must have had no involvement in the director's decision. The appeal shall be heard or considered within three business days after the city receives the applicant's request, and shall be decided de novo. The person considering the appeal shall evaluate the application and the director's decision in accordance with the criteria of this article XIV.
- (13) The person considering the appeal may issue his decision verbally, and shall issue a written decision within three business days of receiving written evidence from the applicant and/or meeting with the applicant, whichever is later. The written decision shall be the final decision of the city regarding the application. The applicant or producer may appeal the decision by writ of certiorari to the Superior Court of DeKalb County pursuant to the procedures set forth by Georgia law.
- (14) In no event shall the director's or any city employee's evaluation of whether to grant or deny the application, including any of the elements, include consideration of:
 - a) The race, color, creed, religion, gender, age, disability, domestic relationship status, parental status, familial status, sexual orientation, national origin, gender identity, political affiliation or associational relationships of the applicant, producer or any person associated with the filming; or
 - b) The message or content of the filming.

(Ord. No. 2017-10-03, § 1(15.14.7), 10-16-2017; Ord. No. 2023-01-02 , § 1(Exh. A), 1-23-2023)

Sec. 15.14.8. Modification, suspension or cancellation of a permit.

- (1) After receiving a permit, the producer may request a material modification of the permit at any time by submitting to the Department of Economic Development a change request and change fee as set forth in section 15.14.11. The Department of Economic Development's ability to process the change request shall be determined pursuant to the provisions established for processing applications, as set forth in subsections 15.14.7(2) and (3) above. The director's decision of whether to grant or deny the modification request shall be determined as set forth in subsections 15.14.7(4) through (14). Submission of a change request will not impact the validity of the permit already issued, except upon written request of the producer.
- (2) Where a producer has obtained a permit and abides by the material requirements thereof, the permit shall prevent the city's stoppage of activities that are authorized by the permit, except as otherwise set forth in subsection (3) of this section or as a result of applicable law.

-
- (3) In the event that the Department of Economic Development identifies a substantial public health or safety risk arising from or caused by the filming, and the producer is in material compliance with the permit, the following shall occur:
- (a) Where the substantial risk is identified prior to the commencement of the filming, the director shall employ reasonable efforts to consult with the producer and identify permit changes that are mutually acceptable to the producer and the city, and that remedy the health/safety issues. Where such efforts are unsuccessful, the director shall modify the permit in a manner that minimizes disruption of the filming as determined at the director's reasonable discretion, and that eliminates the substantial risk.
 - (b) Where the substantial risk is not imminent and is identified after the commencement of the filming, the director shall employ reasonable efforts to consult with the producer and identify permit changes that are mutually acceptable to the producer and the city, and that remedy the health/safety issues. Where such efforts are unsuccessful, the director shall modify the permit in a manner that minimizes disruption of the filming as determined at the director's reasonable discretion, and that eliminates the substantial risk as reasonably determined.
 - (c) Where the substantial risk is imminent as reasonably determined and is identified after the commencement of filming, said department may place a stop work order on the filming if it finds that the order will likely alleviate the substantial risk. The stop work order may be issued without advance notice where the department deems that a delay of the order will jeopardize public health and safety, and shall be lifted as quickly as possible after the risk is eliminated. The director shall employ reasonable efforts to consult with the producer and identify permit changes that are mutually acceptable to the producer and the city, that will minimize the length and impact of the stop work order as decided by the producer, and that remedy the health/safety issues.
 - (d) Changes made to the permit pursuant to this subsection (3) shall not require payment of a change fee.
- (4) Where the director determines that the producer is violating material terms of the permit, the director shall decide the appropriate remedial actions after consulting with the producer. If the director finds that a substantial public health or safety risk is arising from or caused by the material violation, the director may place an immediate stop work order on the filming without prior notice to the producer, and consultation with the producer shall occur after the work stoppage. The consultation between the director and producer shall evaluate the nature and severity of the violation, whether the violation was intentional, whether permit modifications should be made, whether the stop work order should be lifted (where applicable), and what other actions should be taken (if any).

(Ord. No. 2017-10-03, § 1(15.14.8), 10-16-2017)

Sec. 15.14.9. Responsibilities of a producer once a permit is obtained.

- (1) A producer or producer's designee must have the permit on-site at the time and location of the filming, and must also have on-site any other permits required for that location by the department or any other governmental agency.
- (2) A producer must confine filming to the locations, times, guidelines and conditions specified in the permit and must abide by all other material terms of the permit.
- (3) Permits are not transferable.
- (4) A producer must clean and repair the filming location, and restore it to the condition it was in immediately prior to the filming, unless otherwise agreed upon in writing by the director and the producer. The department will inspect the filming location after the filming is completed to ascertain whether this requirement has been met. Where a producer fails to fulfill this requirement, the director will bill the

producer for the cleaning, repair and/or restoration costs borne by the city, and the producer must pay the invoice in full within 30 days of receipt.

- (5) Permits shall require the producer to notify the department within three hours or sooner of learning of any emergency event regarding or arising from the filming that involves the media, the police or fire departments or emergency medical services.
- (6) A producer is responsible for:
 - (a) Knowing and complying with all city ordinances and other laws applicable to the filming and to the other activities arising from the producer's permit; and
 - (b) Requiring and using commercially reasonable efforts to enforce the requirement that any person working for or at the direction of the producer (including without limitation contractors) complies with all city ordinances and other laws applicable to the filming and to the other activities arising from the permit.
- (7) The requirements of subsection (6) of this section shall include without limitation that the producer is responsible for obtaining any and all permissions, licenses or other required authorizations for use of intellectual property, including intellectual property which is on public property but is not owned by the city.
- (8) Permits shall prohibit a producer from acting as a representative or agent of the city, and from indicating city endorsement of the filming, except as otherwise agreed to in writing by the director. This provision shall not prohibit the producer's use of the city logo in the filming credits.
- (9) The director shall require that notification be given to residents and businesses within a three-block radius of a location for which a filming permit has been issued. The director may provide the notification, may require the producer to provide the notification, or may utilize a different mechanism for providing notification. The notification must state that a filming permit has been issued, and must include the dates, times, locations and activities that are authorized by the permit. Additionally, the director shall require that notification be given to the councilmember representing the district in which the filming will occur. The director shall determine the most effective means and timing of notification based upon factors such as the type of impact that the filming will have on the neighborhood, the time between receipt of the application and commencement of the filming, the producer's budget and previous communications from a neighborhood regarding notification preferences.

(Ord. No. 2017-10-03, § 1(15.14.9), 10-16-2017)

Sec. 15.14.10. Other permit requirements.

After a permit has been approved by the director, it will be issued once the following have occurred:

- (1) The producer signs an indemnification provision on the permit whereby the producer agrees to indemnify the city and its officials and employees from all claims, losses and expenses, including attorneys' fees and costs, that may arise from the permit and any of the activities performed pursuant to the permit by, on behalf of, or at the direction of the producer;
- (2) The producer signs a provision agreeing to comply with all applicable environmental laws, including an agreement not to allow legally-prohibited contaminants from entering the sewage and stormwater drainage systems serving the area where the filming will occur. The producer must sign a separate indemnification clause, such as the one described in subsection (1) of this section, that pertains specifically to environmental breaches and includes without limitation the fines and clean-up costs associated therewith;

-
- (3) The producer obtains insurance coverage in an amount determined by the director, covers the city as an additional insured on the policy, and provides proof of the coverage.
 - (4) The producer pays the permit fee and any other applicable fees set forth in section 15.14.11 below.

(Ord. No. 2017-10-03, § 1(15.14.10), 10-16-2017)

Sec. 15.14.11. Fee schedule.

The department shall collect all applicable fees arising pursuant to this article. These fees are set forth below in this section, and in other sections of the Code pertaining to the cost of services or goods provided by other city departments.

- (1) *Filming permit fee.* A filming permit authorizes all filming for a particular filming project during a calendar month, regardless of the number of filming locations. A filming permit is valid through the last day of the calendar month and may be renewed for additional calendar months.
 - a. *Standard Permit Fee.* The following fees apply when the completed filming permit application is submitted more than three business days prior to the effective date of the permit:
 - (i) \$200.00 for original filming permit.
 - b. *Rush permit fee.* Where a completed filming permit application is submitted to the three or fewer business days prior to the effective date of the permit, the producer must pay the standard permit fee plus the rush fee set forth below in this subsection. Additionally, where a producer submits an application more than three business days prior to the effective date of the permit, the producer voluntarily may pay the standard permit fee plus the rush fee in order to have the application processed within three or fewer business days.
 - (i) \$300.00.
 - c. *Material changes to filming permit.*
 - (i) There is no charge for modifying a filming permit where the director reasonably determines that the modification is not material. For the purposes of this article XIV, the term "material" means that processing the requested change will require an expenditure of city staff time or services that is more than de minimus.
 - (ii) There is no charge for a material change to a filming permit where a completed change request is submitted to the director more than three business days prior to the effective date of the permit. Where a material change is requested after the permit has taken effect, there will be no charge if the completed change request is submitted to the director more than three business days prior to the implementation of the requested change.
 - (iii) Where a change request for a material change is submitted to the director three or fewer business days prior to the effective date of the permit or the implementation date of the change, as described in subsection (1)c.(ii) of this section, the producer must pay the rush change fee set forth below in this subsection. Additionally, where a producer submits a change request more than three business days prior to the implementation of the requested change, the producer voluntarily may pay the rush fee in order to have the change request processed within three or fewer business days:
 - (A) \$100.00.
 - d. *Cancellation fee.*

-
- (i) Except as set forth in subsections (1)d.(ii) and (iii) of this section, a filming permit fee is nonrefundable.
 - (ii) Where the producer submits a change request and the change results in cancellation of a filming permit for a particular calendar month, the producer may utilize the filming permit fee for the cancelled month to purchase a new filming permit for the same project for a different calendar month. Regardless of whether a new filming permit fee is owed, the director shall determine whether a rush fee is applicable based upon the timing of the change request and the standards set forth in subsection (1)c. of this section.
 - (iii) A filming permit fee is refundable if cancellation is required because of extraordinary circumstances for which the producer is not responsible and which are not within the producer's control. Inclement weather, except for declared states of emergency, and common illness shall not be deemed extraordinary circumstances.
- (2) *On-site services fee.* An on-site services fee is assessed for each public property location where filming occurs, as authorized by the filming permit, for each day that filming occurs at that site. Where a producer films at more than three locations in a day for the same filming project, he shall be charged an on-site services fee only for the first three locations.

(Ord. No. 2017-10-03, § 1(15.14.11), 10-16-2017)

Secs. 15.14.12—15.14.100. Reserved.

ARTICLE XV. NONCONSENSUAL TOWING

Sec. 15.15.1. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Nonconsensual towing means towing without the prior consent or authorization of the owner or operator of the motor vehicle being towed.

Wrecker means an automotive vehicle with hoisting apparatus and equipment for towing or hauling wrecked or disabled automobiles or other vehicles. The term "wrecker" includes any vehicle otherwise equipped and used for the purpose of towing or hauling wrecked or disabled automobiles or vehicles.

(Ord. No. 2017-08-05, § 8(15.15.1), 8-7-2017)

Sec. 15.15.2. License required; nontransferable.

It is unlawful for any person to operate or cause to be operated, any wrecker or tow truck engaging in nonconsensual towing within the boundaries of the city without first having obtained a nonconsensual towing license from the city. The nonconsensual towing license shall not be transferable.

(Ord. No. 2017-08-05, § 8(15.15.2), 8-7-2017)

Sec. 15.15.3. Revocation of license.

- (a) The City Manager or his designee shall revoke the nonconsensual towing license of any wrecker owner or operator when such person has been found in violation of any of the terms of this article or upon any of the following grounds:
 - (1) If the registration was procured by fraudulent conduct or false statement of a material fact as to ownership, use, possession or operation.
 - (2) If the owner or licensee is found at the scene of an accident in violation of this Code.
 - (3) If the licensee impounds any vehicle, without the consent of its owner, to any impound lot located more than five miles outside of the limits of the city.
- (b) This revocation shall terminate all authority and permission granted by the registration to the wrecker owner. Any person whose registration has been revoked shall not be eligible to again apply for a license for a period of one year from the date of the issuance of the original license.
- (c) Any person whose license has been revoked may file an appeal therefrom in accordance with article XVI of this chapter.

(Ord. No. 2017-08-05, § 8(15.15.3), 8-7-2017)

Sec. 15.15.4. Fees charged for nonconsensual towing.

Any wrecker service engaged in the business of providing nonconsensual towing service shall not charge the owner or operator of any towed motor vehicle more than the maximum rates published in the Nonconsensual Towing Maximum Rate Tariff prescribed by the state department of public safety. No storage fees shall be charged for the first 24-hour period from the time the motor vehicle is removed from the property. The fees stated in the maximum rate tariff shall be all inclusive; no additional fees may be charged for the use of dollies, trailers, lifts, slimjims or any other equipment or service. Only charges or rates for storage and removal that are approved by the state department of public safety and contained in the state department of public safety's maximum rate tariff for nonconsensual towing shall be billed or collected by the wrecker service for towing or storage services; and it is a violation of this rule for any wrecker service to bill or collect fees or charges which are not expressly permitted by such maximum rate tariff.

(Ord. No. 2017-08-05, § 8(15.15.4), 8-7-2017)

ARTICLE XVI. APPEALS

Sec. 15.16.1. Administration; procedure for grievances and appeals.

The City Manager or his designee shall administer and enforce the provisions of this article. Should an aggrieved person or entity desire to appeal a decision under this chapter, the following procedure shall apply:

- (a) A notice of appeal must be filed within 15 calendar days after receipt of the decision complained of. The notice of appeal shall be in the form of a letter, and shall clearly identify all objections or exceptions taken to the decision city manager or his designee. The notice of appeal shall also contain an address for receipt of future notices and decisions of the certificate hearing officer. Should the aggrieved person or entity fail to file a notice of appeal within the time allowed, the right to appeal is lost.

-
- (b) Upon receipt of a timely and proper notice of appeal, appellant shall be notified, in writing, of the date, time and place where a hearing will be held. The hearing shall be held before the certificate hearing officer within 45 calendar days of the date the notice of appeal is filed, but not sooner than ten calendar days after the appellant receives notice of the hearing. City Manager or his designee shall transmit to the hearing officer all documents or materials constituting the record of the action or proceedings below.
 - (c) If the City Manager or his designee deems it necessary that an audit of the financial books/records of appellant be conducted, the city shall notify appellant in writing of a reasonable date, time and place for the audit, which shall be conducted prior to the date of a hearing on the matter. City Manager or his designee may hire outside auditors for this purpose. The expense of hiring outside auditors shall be borne by the city if the position of the appellant is sustained by the audit. If not, the expense of the outside auditors shall be due and payable from appellant as part of the costs of appeal.

(Ord. No. 2017-08-05, § 8(15.16.1), 8-7-2017)

Sec. 15.16.2. Stay of proceedings while under appeal.

An appeal under this article shall stay all legal proceedings with regard to collection of the occupation tax from an appellant; however, such appeal shall not preclude the city from pursuing legal proceedings to enjoin any violation of this article or of any other article of this Code.

(Ord. No. 2017-08-05, § 8(15.16.2), 8-7-2017)

Sec. 15.16.3. Certificate review hearing officer.

A certificate review hearing officer shall be appointed by the mayor and approved by the City Council. The certificate review hearing officer shall have the following duties:

- (a) To hear appeals from decisions of the City Manager or his designee denying the issuance or renewal of any license pertaining to this chapter, except those licenses issued pursuant to article XII of this chapter;
- (b) To hear appeals from the decisions of the City Manager or his designee revoking or suspending any license pertaining to this chapter, except those licenses issued pursuant to article XII of this chapter;
- (c) To hear appeals from the decisions of the City Manager or his designee denying the issuance of permits pertaining to this chapter, except those permits issued pursuant to article XII of this chapter;
- (d) To hear appeals from the decisions of the City Manager or his designee revoking or suspending an employee permit to this chapter, except those permits issued pursuant to article XII of this chapter.

(Ord. No. 2017-08-05, § 8(15.16.3), 8-7-2017)

Sec. 15.16.4. Hearings.

In all hearings pursuant to this chapter, the following procedures shall prevail, and the proceeding shall be as informal as compatible with justice:

- (a) A certificate review hearing officer shall convene the hearing.
- (b) The proceeding before the certificate hearing officer shall be recorded, and all documents and other materials considered by the certificate hearing officer shall be preserved as the record of the

proceedings. The record of the proceedings shall be preserved for not less than 150 calendar days after the hearing.

- (c) Any alleged violations or misconduct levied against the appellant and scheduled for a hearing before the certificate hearing officer shall be read completely to appellant at the commencement of the hearing, unless waived by appellant.
- (d) The certificate hearing officer may receive evidence in support of the alleged violations or misconduct as filed against appellant. Decisions of the certificate review hearing officer are to be supported by the evidence accepted and admitted during the hearing.
- (e) The city shall bear the burden of proof. The standard of proof shall be by a preponderance of the evidence.
- (f) The order of proof shall be as follows: The city representative shall present the case-in-chief in support of the alleged violations or misconduct; the appellant may present a case-in-chief, if desired. Each party may be allowed to present one case-in-rebuttal.
- (g) The appellant and city may be represented by counsel, may present evidence, and may examine and cross-examine witnesses. Additionally, the certificate review hearing officer is permitted to question witnesses. A party is permitted no more than 15 minutes to present that party's case-in-chief; a case-in-rebuttal is permitted no more than ten minutes of presentation. Presentation of arguments and evidence may be in oral or written form, except that affidavits of individuals who are unavailable for cross-examination shall not be accepted, admitted, or considered by the certificate review hearing officer.
- (h) Following the presentation of evidence, the hearing officer shall issue a written decision within 30 calendar days of the date of the hearing. A copy of the decision shall be mailed, via registered or certified mail, to the parties or the parties' representatives. For the appellant, the decision shall be mailed to the address provided on the notice of appeal. Should the certificate hearing officer fail to issue a timely decision, on the 31st day after the date of the hearing appellant may seek review as if a decision adverse to appellant had been rendered.
- (i) The findings of the certificate hearing officer shall be final unless a party files a petition for writ of certiorari to the superior court of the county within 30 calendar days of the decision of the certificate hearing officer.

(Ord. No. 2017-08-05, § 8(15.16.4), 8-7-2017)

Sec. 15.16.5. Service of notices.

For the purpose of this article, notice shall be deemed delivered when personally served or, when served by mail, within three days after the date of deposit in the United States mail.

(Ord. No. 2017-08-05, § 8(15.16.5), 8-7-2017)

ARTICLE XVII. TRANSITION PERIOD

Sec. 15.17.1. Existing license.

Any legal, validly issued existing license or permit issued by DeKalb County within the incorporated boundaries of the City of Stonecrest shall be valid within the City of Stonecrest for the calendar year of 2017. Any such licensee or permit holder shall be required to comply with the requirements of this chapter. At the expiration

of 2017, any such licensee or permit holder shall be required to comply with this chapter regarding the application of an initial permit, as if no previous license or permit had been held.

Nothing in this section should be construed as creating a right, vested or otherwise, to the license or permit originally issued by DeKalb County, or the renewal or issuance of said permit or license for any subsequent years by the City of Stonecrest.

(Ord. No. 2017-08-05, § 8(15.17.1), 8-7-2017)

ARTICLE XVIII. SHORT TERM VACATION RENTALS

Sec. 15.18.1. Purpose; intent.

The purpose of this article is to protect the public health, safety and general welfare of individuals and the community at-large through the establishment of reasonable regulations for the use of residential dwelling units as short-term vacation rentals

(Ord. No. 2018-06-01, § 4(15.18.1), 6-18-2018)

Sec. 15.18.2. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Code compliance verification form means a document executed by a short-term vacation owner certifying that the short-term vacation unit complies with applicable zoning, building, health and life safety code provisions. No person shall allow occupancy or possession of any short-term vacation rental unit if the premises is in violation of any applicable zoning, building, health or life safety code provisions.

Short-term vacation rental occupants means guests, tourists, lessees, vacationers or any other person who, in exchange for compensation, occupy a dwelling unit for lodging for a period of time not to exceed 30 consecutive days.

Short-term vacation rental means any dwelling unit, single-family dwelling, multifamily dwelling unit, two-family dwelling, three-family dwelling, duplex, triplex, urban single-family dwelling, condominium, townhouse, cottage development, dwelling unit, and structure used for residential dwelling that permits any portion of the premises or dwelling unit to be used for the accommodation of transient guests, for a fee, for less than 30 consecutive days. This is also identified as "STVR."

Short-term vacation rental agent means a natural person designated by the owner of a short-term vacation rental on the short-term vacation rental certificate application. Such person shall be available for and responsive to contact at all times and someone who is customarily present at a location within the city for the purposes of transacting business.

(Ord. No. 2018-06-01, § 4(15.18.2), 6-18-2018)

Sec. 15.18.3. Application.

- (a) No person shall rent, lease, or otherwise exchange for compensation all or any portion of a single-family dwelling as short-term vacation rental, as defined in section 15.18.2, without first obtaining a business tax certificate from the City Manager or his designee and complying with the regulations contained in this

section. No certificate issued under this chapter may be transferred or assigned or used by any person other than the one to whom it is issued, or at any location other than the one for which it is issued.

- (b) Applicants for a business tax certificate shall submit, on an annual basis, a registration for a short-term vacation rental to the City. The application shall be furnished on a form specified by the City Manager, accompanied by a non-refundable application fee as established in 15.18.4. Such application should include:
 - (1) The complete street address of the STVR;
 - (2) Ownership, including the name, address, e-mail and telephone number of each person or entity with an ownership interest in the property;
 - (3) The number of bedrooms, the maximum occupancy and the number and location of off-street parking spaces on the premises and any off-premises parking applicable;
 - (4) The name, address and telephone number of a short-term vacation rental agent or local emergency contact if applicable;
 - (5) Any other information that this chapter requires the owner to provide to the city as part of the registration for a short-term vacation rental. The city manager or his designee shall have the authority to obtain additional information from the applicant as necessary to achieve the objectives of this chapter;
 - (6) The emergency contact number required by section 15.18.5;
 - (7) Any other information that this chapter requires the owner to provide to the city as part of an application for a short-term vacation rental certificate. The city manager or his designee shall have the authority to obtain additional information from the applicant as necessary to achieve the objectives of this chapter.
- (c) The application form pursuant to this section shall be processed and added to a database to be kept by the City Manager or his designee listing STVR unit information and any citations that occur. The city shall notify the owner and agent of any instances that result in a citation for a code violation or other legal infraction.
- (d) The owner or agent shall not be relieved of any personal responsibility or personal liability for noncompliance with any applicable law, rule or regulation pertaining to the use and occupancy of the single-family dwellings as a short-term vacation rental unit.

(Ord. No. 2018-06-01, § 4(15.18.3), 6-18-2018)

Sec. 15.18.4. Application fee/renewal.

- (a) The short-term vacation rental application shall be accompanied by an initial application fee and be subject to an annual application fee every January 1 thereafter, as established by the mayor and city council.
 - (1) The 2018 rental application fee shall be \$100.00 per rental unit.
 - (2) The annual application fee thereafter shall be \$100.00 per rental unit. The annual application fee shall be due January 1 of each year and if not paid within 90 days thereof shall be subject to delinquency and penalties provisions of chapter 15, article II of the Code of Ordinances for Stonecrest, Georgia, as applicable to occupation tax/business license provisions. Every person holding a license as specified herein shall secure that license within 90 days after January 1 of each year, and pay for same as herein provided.
- (b) Each property shall be issued a business tax certificate.
- (c) Failure to apply for a business tax certificate as prescribed by this law will result in a fine of \$100.00 for each month that the unit continues to operate a valid business tax certificate.

-
- (d) The annual application fee is not transferrable and should ownership of a unit change, the new owner must reapply and remit the application fee.
 - (e) In the event a management company changes, a new application will be required with a fee of \$25.00 to cover administrative costs.
 - (f) The business tax certificate number shall be included in any advertisement of the STVR.

(Ord. No. 2018-06-01, § 4(15.18.4), 6-18-2018)

Sec. 15.18.5. Emergency contact.

All STVR units shall be furnished with a telephone that is connected to a landline or similar type connection, including a voice over internet protocol, in order that 911 dispatch may be able to readily identify the address and/or location from where the call is made when dialed. STVR applicants and agents are to work with city staff as to the implementation of such emergency contact facilities or equipment and, until the appropriate connection for emergency contact is established, occupancy of the STVR location without the connection is prohibited.

(Ord. No. 2018-06-01, § 4(15.18.5), 6-18-2018)

Sec. 15.18.6. Compliance.

All STVRs are responsible for complying with and remitting the City of Stonecrest's hotel and motel tax ordinance.

(Ord. No. 2018-06-01, § 4(15.18.6), 6-18-2018)

ARTICLE XIX. MOBILE FOOD VENDORS

DIVISION 1. GENERALLY

Sec. 15.19.1. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Blind person means a person whose vision, with correcting glasses, is so defective as to prevent the performance of activities for which eyesight is essential. See O.C.G.A. § 49-4-51(b).

Disabled veteran means a resident of the state who may be either a war veteran or veteran of peace-time service as set forth below and such person must obtain a certificate of exemption issued by the state commissioner of veterans' service.

- (1) A war veteran must furnish satisfactory proof that he has a physical disability which is disabling to the extent of ten percent or more; that his service in the armed forces of the United States was terminated under conditions other than dishonorable; and that his service or some part thereof was rendered during a war period, as defined by an act of the Congress of the United States, approved March 20, 1933, entitled "An Act to Maintain the Credit of the United States," and commonly known as Public Law No. 2, 73rd Congress; or that some part of his service was rendered on or after December 7, 1941, and before December 31, 1946; or that some part of his service was rendered on or after June 27, 1950, and before January 31, 1955; or that some part of his service was rendered on or after August 5,

1964, and before May 8, 1975. Proof of such ten percent disability shall be established upon the written certificate of two physicians as to such disability, or by a letter or other written evidence from the United States Department of Veterans Affairs or the Department of Veterans Service stating the degree of disability, or by written evidence from the branch of the armed forces of the United States in which such veteran served.

- (2) A veteran of peace-time service in the United States armed forces must furnish proof that he has a physical disability to the extent of 25 percent or more incurred in the line of duty during the period of such service by a letter or other evidence from the United States Department of Veterans Affairs or the Department of Veterans Service stating the degree of disability or by written evidence from the branch of the armed forces of the United States in which such veteran served and that his service in the armed forces of the United States was terminated under conditions other than dishonorable.
- (3) That disabled veterans and blind persons shall only have to show proof of their disability upon their initial application, as opposed to annually. If the current language of O.C.G.A. § 43-12-2 is amended, then this definition of disabled veteran shall be controlled by O.C.G.A. § 43-12-2, as amended.

Food truck means any motor vehicle used for vending of prepared food items to the public from designated food truck areas.

Items permissible for sale means items which may be offered for sale by and are limited to non-alcoholic pre-packaged beverages; pre-packaged food; prepared food; and prepared non-alcoholic beverages. Items permissible for sale shall not include any tobacco products.

Moral turpitude means the act or behavior of baseness, vileness or the depravity in private and social duties which people owe to their fellow people, or to society in general, contrary to accepted and customary rule of right and duty between person and person; act or behavior that gravely violates moral sentiment or accepted moral standards of community and is a morally suitable quality held to be present in some criminal offenses as distinguished from others.

Non-alcoholic pre-packaged beverages means beverages sealed in plastic or aluminum single serving containers excluding all beverages in glass containers, and excluding all alcoholic, including, but not limited to, malt beverages, wine and distilled spirits.

Operating area means:

- (1) The area in which a vendor may operate from a vending cart and which may not exceed 28 square feet of sidewalk including the area of the vending cart, and, when externally located, the operator and trash receptacle; or
- (2) The parameters of the food truck.

Pre-packaged food means single serving sealed packaged foods, including, but not limited to, candy, popsicles, chips/bagged snacks which do not require any heating or powered refrigeration, and the service of which does not require authorization by the DeKalb County Board of Health.

Prepared non-alcoholic beverages means beverages prepared on-site and which are not served in glass containers, and excluding all alcoholic beverages, including, but not limited to, malt beverages, wine and distilled spirits.

Prepared food means food prepared on-site, the sale of which requires authorization by the DeKalb County Board of Health.

Public property and public space both mean, for the purpose of this article, any property owned by the City of Stonecrest within street rights-of-way, including any roadways and sidewalks, but excluding city-owned parks.

Vending means vending activity as permitted on privately-owned commercial or industrial property under the jurisdiction of the City of Stonecrest and in specifically designated city-owned parks or property. Vending shall

only be permitted in city-owned parks or property where such activity is associated with a special event and/or subject to regulation under a more specific permit.

Valid vendor permit means a permit issued by the City of Stonecrest for a vendor of a vending cart or food truck. Such permit shall consist of a photo identification card which contains the vendor's name, photograph, vending type and classification, authorized valid vendor locations and time period for which such permit is valid.

Vending cart means a vending cart at which prepared food, prepared non-alcoholic beverages, pre-packaged food and non-alcoholic pre-packaged beverages may be offered for sale.

Vendor means any person who has been issued a valid vendor permit.

(Ord. No. 2018-10-01, § 1(15.19.1), 10-3-2018)

Sec. 15-19-2. Purpose, intent and applicability.

- (a) Vending on public property in the incorporated boundaries of the city, as defined in this article, shall be prohibited. Vending on privately-owned commercial or industrial property without a permit issued pursuant to this article shall be unlawful and a person violating this article shall, upon conviction, be punished as provided by this Code.
- (b) It is the intent of council in enacting this article to:
 - (1) Serve and protect the health, safety and welfare of the general public.
 - (2) Establish a uniform set of rules and regulations which are fair and equitable.
 - (3) Provide economic development opportunities for small entrepreneurs in the city.
 - (4) Provide a variety of goods and services for sale.
 - (5) Promote stable vendors who will enrich the city's ambiance and be assets to public security.

(Ord. No. 2018-10-01, § 1(15-19-2), 10-3-2018)

Sec. 15-19-3. Vending business required to remit sales taxes and keep records.

- (a) Every vendor shall file with Georgia Department of Revenue (GDOR) the appropriate forms and remit monthly sale tax revenues to GDOR. Nothing in this section shall prohibit the revocation of any permit in accordance with the provisions of division 2 of this article.
- (b) Prospective vendors, by filing a business license application, agree to produce documents and records which may be considered pertinent to the ascertainment of facts relative to the issuance and maintenance of the permit, including, but not limited to, the following:

Records of sales and receipts for purchases and expenses from any business in which a vendor has any interest.

(Ord. No. 2018-10-01, § 1(15-19-3), 10-3-2018)

Sec. 15-19-4. Vending operational rules.

- (a) Hours of operation shall be between 7:00 a.m. and 6:00 p.m., or as previously approved by the City Manager or his designee in connection with a special event permit.
- (b) Any and all signage must comply with the City of Stonecrest Code of Ordinances, chapter 21.

-
- (c) Vendors may offer items permissible for sale only.
 - (d) All vendors shall display their valid vending permits, photo identification card, and any required copies of licensing agreements at the valid vendor location.
 - (e) All vendors must maintain an auditable point-of-sale system to track and report on sales revenue and appropriate taxation in accordance with the requirements of section 15-19-3.
 - (f) Vending operations may not obstruct vehicular traffic flow except for up to 15 minutes to load and unload vending carts and merchandise.
 - (g) Vending operations, including, but not limited to, the display of merchandise and may not exceed the approved operating area.
 - (h) Vending carts and/or food trucks shall not be left unattended or stored at any time in the operating area when vending is not taking place or during restricted hours of operation.
 - (i) Vending carts and/or food trucks should not occupy more than one standard parking space.
 - (j) Vending carts and/or food trucks shall not operate on vacant or undeveloped lots.
 - (k) Vending carts and/or food trucks shall be located within 100 yards of the principal structure of the lot upon which it intends to vend.
 - (l) Vending carts and/or food trucks are allowed to stay at any one place of operation for a maximum of four hours.
 - (m) Vendors offering prepared food shall obtain the proper authorization and permits from the DeKalb County Board of Health or the comparable department of another municipality.
 - (n) Vendors offering pre-packed food and prepackaged beverages shall obtain the proper authorization from the Georgia Department of Agriculture.
- (Ord. No. 2018-10-01, § 1(15-19-4), 10-3-2018)

Sec. 15-19-5. Aesthetic standards.

Vending carts must comply with the following aesthetic standards:

- (a) Length of the cart may not exceed seven feet and width may not exceed four feet in height, excluding canopies, umbrellas, or transparent enclosures; may not exceed five feet;
- (b) Canopies shall have a minimum clearance of seven feet and a maximum height of nine feet, six inches above the sidewalk;
- (c) Canopies may not exceed 48 square feet (eight feet by six feet);
- (d) All carts must be mobile, and able to roll on wheels;
- (e) The design, materials, and colors are to be of natural wood or metal products and considerate of the immediate surroundings of the proposed location;
- (f) Materials must be in working order, and may not include peeling paint, visible defects or areas requiring maintenance;
- (g) The wheels located under the cart are preferred; however projecting wheels must have fenders;
- (h) Hitches attached to the cart must be removable and detached when in operation; and
- (i) If used, propane tanks must be enclosed.

(Ord. No. 2018-10-01, § 1(15-19-4), 10-3-2018)

Secs. 15-19-6—15-19-20. Reserved.

DIVISION 2. PERMITS AND LICENSES

Sec. 15-19-21. Vendor permit and business license required.

- (a) No vending shall occur without a permit issued pursuant to this article.
- (b) No person shall engage in the business or trade of vending without first obtaining a business license. Disabled veterans and blind persons, as defined by O.C.G.A. § 43-12-1 and section 15.19.1 of this Code, are exempt from payment of business license fees, but must obtain such licenses.
- (c) All valid vendor permits are nontransferable, and must be displayed in clear view, together with the vending permit photo identification card, at the permitted location or designated food truck area at all times when the vendor or assistant vendor is present.

(Ord. No. 2018-10-01, § 1(15-19-21), 10-3-2018)

Sec. 15-19-22. Application.

- (a) An application shall be required by all persons seeking issuance of a valid vendor permit. Each applicant must apply in person and complete an application form. Application forms may be obtained from and filed with the office of revenue.
- (b) Permit fees and applicable maintenance fees are due and payable in the manner required by the City Manager or his designee if and when the application is approved by the City.
- (c) An application for permit, including the proposed vending areas, must be submitted the City Manager of his designee for approval at least 30 calendar days prior to the proposed vending start date. The City Manager or his designee shall approve, deny, or request addition information from the applicant within 14 business days.
- (d) The application shall, at a minimum, consist of the following data:
 - (1) Applicant's name and current address.
 - (2) Applicant's previous addresses within the last five years.
 - (3) Social Security number.
 - (4) Proposed vending locations.
 - (5) Certification of approval of vending location from the private property owner.
 - (6) A dimensional site plan drawing for each vending location within the city which clearly shows the footprint and placement of the cart and the operating area.
 - (7) The times and days/dates during which the vendor estimates they will vend on the proposed property.
 - (8) GDOR retail identification tax number.
 - (9) State issued picture identification.
 - (10) City business license.

(Supp. No. 3)

Created: 2023-08-28 12:09:56 [EST]

(11) A general description of the items permissible for sale to be sold or offered for sale.

- (e) All applicants shall furnish all data, information and records requested of them by the City Manager or his designee within ten days from the date of request. Failure to furnish such information within ten days shall automatically dismiss, with prejudice, the application.

(Ord. No. 2018-10-01, § 1(15-19-22), 10-3-2018)

Sec. 15-19-23. Term and renewal of permits.

- (a) A valid vendor permit will be issued for a one-year period. When the one-year permit expires, a vendor may apply for a renewal permit which allows the vendor to vend for another one-year period. All valid vendor permits are required to be renewed annually on or before March 1. All annual permit fees and applicable annual maintenance fees are due and payable at the time of renewal.
- (b) Vendors may present to the City Manager or his designee an application for a renewal permit. Upon a review and approval of the renewal application, satisfaction of all other license and permit requirements, and upon payment of the appropriate fees as indicated in section 15-19-24, the vendor shall be furnished with a renewal permit.
- (c) Each applicant for a renewal application shall submit an application which shall at a minimum consist of the data required for the issuance of an initial permit as set forth in section 15-19-22.

(Ord. No. 2018-10-01, § 1(15-19-23), 10-3-2018)

Sec. 15-19-24. Annual fees.

- (a) Annual permit fees and applicable annual maintenance fees are due and payable upon approval of the application.
- (b) The annual permit fee for all valid vendor permits shall be \$75.00.

(Ord. No. 2018-10-01, § 1(15-19-24), 10-3-2018)

Sec. 15-19-25. Location.

- (a) Valid vendor locations shall:
- (1) Not be within 15 feet of street intersections or pedestrian crosswalks or 15 feet of building entrances/exits or within 50 feet of hotels/motels;
 - (2) Not be within 15 feet of a driveway, bus stop, crosswalk, or intersection;
 - (3) Provide a minimum of five feet of unobstructed pedestrian space;
 - (4) Not be within 15 feet of a fire hydrant driveway; and
 - (5) Not be within 600 feet of the closet property line of any public or private elementary, middle or high school.

(Ord. No. 2018-10-01, § 1(15-19-25), 10-3-2018)

Sec. 15-19-26. Notification of name change or change of address.

Whenever either the name or address provided by the vendor on the application for a valid vendor permit changes, the vendor shall notify the City Manager or his designee in writing within ten days of such change and provide same with the name change or address change. Vendors shall ensure that a current and correct name, residence address and mailing address are on file with the City Manager or his designee at all times.

(Ord. No. 2018-10-01, § 1(15-19-26), 10-3-2018)

Sec. 15-19-27. Denials, fines, suspensions and revocations.

- (a) No valid vendor permit shall be issued to any person who has been convicted within five years immediately prior to the filing of the application for any felony or misdemeanor relating to drug possession and related matter; crimes of moral turpitude; larceny, fraudulent conveyance, perjury and/or false swearing, or subrogation. Any conviction for dealing and/or trafficking in illegal drugs will automatically disqualify an applicant.
- (b) Failure to maintain initial qualifications shall be grounds for revocation or denial of a renewal permit.
- (c) A denial, fine, suspension, revocation of any permit issued pursuant to this article may be imposed for any of the following causes:
 - (1) Fraud, misrepresentation or false statements contained in the application.
 - (2) Failure on the part of a vendor to maintain initial eligibility qualifications.
 - (3) Failure to furnish any and all documentation requested by either the police department, the office of revenue or the license review board for the purposes of the investigation of any application or for the inspection of records pursuant to this division within 30 days of such request.
 - (4) Any failure to comply with any requirement set forth in this article or this Code.
- (d) Any person whose permit is revoked may not reapply until one year following the effective date of the revocation.
- (e) In addition to carrying out all other investigations as may be permitted under this article, the license and permits unit shall investigate any alleged violation of this article upon receipt of a written, sworn complaint by any person who witnesses or becomes aware of a potential violation. Such complaint shall be signed under penalty of perjury, and shall be accompanied by any supporting evidence.

(Ord. No. 2018-10-01, § 1(15-19-27), 10-3-2018)

Sec. 15-19-28. Appeal on suspension, fine, revocation or denial.

A person to whom the city refuses to issue a vendor's permit or whose vendor's permit is suspended or revoked may file an appeal therefrom in accordance with article XVI of this chapter.

(Ord. No. 2018-10-01, § 1(15-19-27), 10-3-2018)

Sec. 15-19-29. Vendors selling ice cream or other pre-packaged food and/or non-alcoholic pre-packaged beverages out of motor vehicles.

- (a) Vendors selling ice cream or other pre-packaged food and/or non-alcoholic pre-packaged beverages out of motor vehicles shall be subject to this section. Vendors permitted in accordance with this section shall not be permitted to sell prepared food or prepared non-alcoholic beverages.
- (b) Every vendor selling ice cream or other pre-packaged food and/or non-alcoholic pre-packaged beverages out of motor vehicles pursuant to this section shall, before making any sale, park the vehicle at the right curb and at least eight feet from any other vehicle that may be parked on the street and not less than 100 feet from any intersecting street. When the vending vehicle stops, all sound equipment or other devices used to notify customers of the presence of the vendor shall be stopped and shall not be resumed until the vehicle is again put in motion.
- (c) No vehicle using sound equipment or other method of attracting customers shall operate such equipment between the hours of 9:00 p.m. and 9:00 a.m. daily. On days in which schools are actually in session, no motor vehicle shall be operated within 600 feet of any public school in the city one hour before or one hour after published school hours.
- (d) Vendors selling ice cream or other pre-packaged food and/or non-alcoholic pre-packaged beverages out of motor vehicles pursuant to this section, shall not stop or stand and do business for more than 30 minutes.
- (e) Vendors selling ice cream or other pre-packaged food and/or non-alcoholic pre-packaged beverages out of motor vehicles pursuant to this section shall not be restricted to an operational area or location specifically described in section 15-19-25.

(Ord. No. 2018-10-01, § 1(15-19-29), 10-3-2018)

TMOD 24-002 HOURS OF OPERATION BASED ON USE

ARTICLE XX. HOURS OF OPERATION BASED ON USE

Sec. 15.20.1. Purposes.

The purposes of this chapter shall include, but not be limited to, the following:

- (a) Hours of operation for businesses located in city limits;
- (b) Uses that are following city's land use and zoning policies/plans;
- (c) Prevention of the unlawful sale and use of alcohol and the extension of the hours of operation;
- (d) Protection of schools, homes, churches, parks and other entities; and
- (e) Compliance with the city's noise ordinance.

- CODE OF ORDINANCES
Chapter 16 MISCELLANEOUS PROVISIONS AND OFFENSES

A. Hours of Operation Based on Uses

- a. Pawnbrokers may not keep open their places of business except between 9 a.m. and 9:00 p.m. Monday through Saturday (Section 15.5.9)
- b. Precious Metal Dealers may not keep open their places of business except between 9:00 a.m. and 9:00 p.m. (Section 15.6.9)
- c. Peddlers, Door to Door Sales and Similar Occupations, Soliciting or canvassing on the public streets, areas, or parks of the city shall be conducted only between the hours of 10:00 a.m. and 5:00 p.m.
- d. Soliciting or canvassing or calling from house to house within the incorporated areas of the city shall be conducted only between the hours of 10:00 a.m. and 5:00 p.m. (Section 15.7.6)"
- e. Massage therapists shall conduct business only between the hours of 10:00 a.m. and 9:00 p.m.
- f. No sexually oriented business shall be or remain open for business between 12:00 midnight and 7:00 a.m. on any day after July 1, 2017. (Section 15.12.12)

B. h. ~~Distilled Spirits~~ a) Distilled spirits shall be sold and delivered to the customer for consumption on the premises during the following hours:

~~(i) Monday through Friday hours are from 9:00 a.m. until 1:55 a.m. of the following day. 12am~~

C. ~~(ii) Saturday hours are from 9:00 a.m. until 12:55-00a.m. on Sunday. —~~

~~(iii) Sunday hours are from 11:00 a.m. until 12:00 a.m. midnight on Monday. —~~

- a. (b) Sales and deliveries during all other hours are prohibited. All licensed establishments must close their premises to the public and clear their premises of patrons by ~~3:30 a.m.~~ 12am and shall not reopen their premises to the public until 9:00 a.m. or thereafter. (Section 4.5.12)"
- b. Sunday Sales: Licensed establishments deriving a minimum of 60 percent of their total annual gross food and beverage sales from the sale of prepared meals or food, or licensed establishments deriving at least 60 percent of their total annual income from the rental of rooms for overnight lodging, are authorized to apply for a Sunday sales permit to sell and serve alcoholic beverages, malt beverages and wine by the drink from 11:00 a.m. on Sunday until 12:00 a.m. ~~midnight of the following Monday.~~ (Section 4.5.15)

D. j. ~~Restaurants.~~ All restaurants or drive-ins within the limits of the city are required to close the same before 12:00 midnight and same is not to be reopened until 7:00 a.m. the following day. An exception to this requirement is those restaurant businesses when applying for a business licenses specify the exception. ~~who have received a~~ However, public service facilities may remain open up to twenty-four (24) hours a day with a prior permit of the mayor and council. Service facilities include but are not limited to government buildings and/or hospitals as interpreted by the Planning and Zoning Director or his/her designee.

E. k. ~~Outdoor amusement and recreation parks and facilities.~~ All outdoor amusement and recreation parks and facilities are required to cease all operations by 11:00 p.m. Monday through Sunday, and such parks and facilities shall not open before 12:00 noon on Sundays. If go-cart activities are permitted by the

city at any such parks or facilities, such activities shall cease by 9:00 p.m. Monday through Saturday and shall only be allowed from 12:00 noon until 6:00 p.m. on Sundays.

- F. l. Convenience Store. All convenience stores within the city limits are required to close the same before 12:00 midnight and same is not to be reopened until 7:00 a.m. the following day.
- G. m. Quarry work shall not begin before 7:00 a.m. and shall end on or before 5:30 p.m. No work shall be permitted on Sundays. Blasting and the explosion of dynamite and explosives shall be limited between the hours of 11:00 a.m. and 1:00 p.m. Monday-Friday. [September 12, 2024-CPIM suggested amendment](#)
- i. Quarry work shall not begin before 7:00 a.m. and shall end on or before 5:30 p.m. No work shall be permitted on Sundays. Blasting and the explosion of dynamite and explosives shall be limited between the hours of 11:00 a.m. and 1:00 p.m.
- H. n. Billiard and Pool Halls; Bowling Alleys. No person operating a bowling alley or pool, or billiard hall covered by the provisions of this article shall permit any table to be played upon after 12:00 midnight, Monday through Saturday. Such playing shall be prohibited until 10:00 a.m. each day. If operated in conjunction with any other business, the proprietor/operator shall keep dark and not allow public access to that part of the business in which the pool or billiard tables are located after such closing hours.

Chapter 16 MISCELLANEOUS PROVISIONS AND OFFENSES

ARTICLE I. IN GENERAL

Sec. 16-1. Fines and punishment.

Unless otherwise specified, any person found guilty of violating any provision of this chapter shall be punished in a manner consistent with this Code and Georgia law.

(Ord. No. 2018-10-03, § 16-1, 10-15-2018)

Sec. 16-2. Criminal impersonation.

- (a) As used in this section, the term "intent to defraud" means the use of deception with the intention to injure another's interest which has economic or monetary value.
- (b) A person commits the offense of criminal impersonation if the individual:
- (1) Assumes a false identity and commits any act in their assumed character with the intent to defraud another; or
 - (2) Pretends to be a representative of some person or organization and commits any act in their pretended capacity with the intent to defraud another.

(Ord. No. 2018-10-03, § 16-2, 10-15-2018)

Sec. 16-3. False representation of age.

It shall be unlawful for any person to misrepresent his age in any manner whatever for the purpose of gaining entrance to events or establishments that require a minimum age, including, but not limited to, bars, nightclubs, movies, video stores, bookstores or bingo parlors.

(Ord. No. 2018-10-03, § 16-3, 10-15-2018)

Sec. 16-4. Aiding, encouraging minor to commit unlawful act.

No person shall aid, abet or encourage a minor to do any act which constitutes a violation of any State law or this Code.

(Ord. No. 2018-10-03, § 16-4, 10-15-2018)

Secs. 16-5—16-19. Reserved.

ARTICLE III. OFFENSES AGAINST PUBLIC PEACE, ORDER AND SAFETY

DIVISION 1. GENERALLY

Sec. 16-20. Disorderly conduct.

- (a) It shall be unlawful for any person to disturb or endanger the public peace or decency by any disorderly conduct.
- (b) The following acts, among others, are declared to be disorderly conduct:
 - (1) Act in a violent or tumultuous manner toward another whereby any person is placed in fear of the safety of such person's life limb or health;
 - (2) Act in a violent or tumultuous manner toward another whereby the property of any person is placed in danger of being damaged or destroyed;
 - (3) Cause, provoke or engage in any fight, brawl or riotous conduct so as to endanger the life, limb, health or property of another;
 - (4) Assemble or congregate with another or others for the purpose of gaming;
 - (5) Be in or about any place, alone or with others, with the purpose of or intent to engage in any fraudulent scheme, trick or device to obtain any money or valuable thing or to aid or abet any person doing so;
 - (6) Be in or about any place where gaming or illegal sale or possession of alcoholic beverages or narcotics or dangerous drugs are practiced, allowed or tolerated, for the purpose of or intent to engage in gaming or the purchase, use, possession or consumption of such illegal drugs, narcotics or alcohol;
 - (7) Direct fighting words toward another, that is, words which by their very nature tend to incite an immediate breach of the peace;
 - (8) Interfere, by acts of physical obstruction, with another's pursuit of a lawful occupation;

-
- (9) Congregate with another or others in or on any public way so as to halt the flow of vehicular or pedestrian traffic, and to fail to clear that public way after being ordered to do so by a City official, police officer or other lawful authority;
 - (10) Stand or remain in or about any street, sidewalk, overpass, or public way so as to impede the flow of vehicular or pedestrian traffic, and to fail to clear such street, sidewalk, overpass or public way after being ordered to do so by a City Official, police officer or other lawful authority;
 - (11) Disrupt by actions which tend to cause an immediate breach of the peace the undisturbed activities of any house of worship, hospital, or home for the elderly; or
 - (12) Throw bottles, paper, cans, glass sticks, stones, missiles, or any other debris on public property.
 - (13) Hosting a "party house," as defined in the zoning ordinance, in violation of any provisions related to same in the zoning code or any other applicable ordinance of the city.
 - (14) Attending a "party house," as defined in the zoning ordinance, and causing any disturbance in violation of the city's noise ordinance or being visibly drink in the front yard of the "party house" or public street.

(Ord. No. 2018-10-03, § 16-20, 10-15-2018; Ord. No. 2019-11-04 , § III, 11-25-2019)

DIVISION 3. OFFENSES INVOLVING SCHOOLS

Sec. 16-71. Unauthorized persons entering school buildings.

No person shall enter or remain in any public, private or parochial school building between the hours of 7:30 a.m. and 6:00 p.m. on days that school is in session (or until 10:00 p.m. at those schools which have extended sessions), who is not a regularly enrolled student, teacher or employee at that school, unless the person shall have first and immediately proceeded to the administrative offices and identified themselves to the principal or the principal's agent and receives permission to remain on the premises.

(Ord. No. 2018-10-03, § 16-71, 10-15-2018)

Sec. 16-72. Unauthorized persons not to remain in school buildings or on school grounds after being requested to leave.

It shall be unlawful for any person to enter and remain in any public, private, or parochial school or on the surrounding school grounds after being directed to leave by the principal of the school or by someone with lawful authority.

(Ord. No. 2018-10-03, § 16-72, 10-15-2018)

Sec. 16-73. Creating a disturbance.

- (a) It shall be unlawful for any person to create a disturbance in any public, private or parochial school or on the surrounding school grounds lawfully used for school activities while such recreational areas are in use or other activities are in progress thereon.

-
- (b) A disturbance, for the purposes of this section, shall be defined as any act which may be reasonably expected to interfere with the activities within the school or school activities on the school grounds or fields while such activities are in progress thereon.

(Ord. No. 2018-10-03, § 16-73, 10-15-2018)

Sec. 16-74. Operation of motorized vehicles on school property.

The operation of motorized vehicles of any nature in or on any yard, campus, playing field or open area of any public school, college or institution in the city, except on those areas designated by school authorities for use of motorized vehicles, is prohibited.

(Ord. No. 2018-10-03, § 16-74, 10-15-2018)